

# Profile of Courts in Canada

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# Profile of Courts in Canada

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## PREFACE

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The Canadian Centre for Justice Statistics is the focal point of a federal-provincial initiative dedicated to national statistics and information on the justice system in Canada. Established in 1981, the Centre is responsible for producing information on the extent and nature of crime and the administration of criminal, civil and administrative justice in Canada. This information is intended to serve governments in the development, operation and evaluation of justice policies and programs, as well as to broaden public understanding of how the justice system operates and of its cost.

This publication contributes to the above objectives by presenting qualitative information on the structure and operation of Canada's courts and court services.

Comments or inquiries concerning the content of this publication should be addressed to the Courts Program, Canadian Centre for Justice Statistics, Statistics Canada, R.H. Coats Building, 19th Floor, Tunney's Pasture, Ottawa, Ontario, K1A 0T6, telephone (613) 951-6608.



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## HIGHLIGHTS

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The historical, cultural and geographic diversity of Canada has had a marked impact on the structures and administrative services in the Canadian court system. The adaptive process inherent in developing justice services to meet local needs and interests has also resulted in variations in support services to the courts.

Profile of Courts in Canada, a new publication, presents detailed information on the courts, embracing those in the ten provinces, the two territories, the federal courts and the Office of the Commissioner for Federal Judicial Affairs. Each jurisdiction is described in terms of levels and jurisdiction of the courts, jurisdiction and duties of the key administrative functionaries, and the sources and types of administrative support services to these courts. The publication also contains organization charts of the departments responsible for court services and the individual court services branches.

As the first in a series of proposed publications, this publication is a base study against which future structural changes in Canada's courts may be measured. The Adult Courts Program of the Canadian Centre for Justice Statistics considers the "Profiles" series an essential reference source supporting the planned statistical products of its major national surveys.

Some of the more significant variations existing among jurisdictions which the reader will encounter in Profile of Courts in Canada include the following:

- the overall structure of the courts differs among jurisdictions;
- the administrative structures differ among jurisdictions although standard specified services must be provided;
- jurisdictions differ in the methods of hearing family matters before the courts, some having specific family courts dedicated to these matters while others do not;
- jurisdictions vary in their methods and degree of enforcing maintenance and support payments arising out of divorce actions and separation agreements;
- municipal courts exist in some jurisdictions, and the magnitude of their jurisdiction may vary from simple by-law infractions and municipal tax matters to summary matters normally dealt with in provincial court; and
- certain court staff positions, while similar in name, vary greatly in the scope of duties and authority.

Profile of Courts in Canada is intended to consolidate under a single cover many of the fundamental knowledge requirements about the courts useful in examining justice issues confronting Canada today.



## INTRODUCTION

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This publication presents descriptive information on Canada's civil and criminal courts and on the services which support court operations at both the federal and provincial/territorial levels. Also included is an overview of the organizational structures within which Canada's courts operate. All descriptive and quantitative information reflect the period ending March 31, 1988.

While not a statistical publication, this document is the first in a series of proposed documents to provide the context within which current and future national court statistics can be analyzed and understood.

This publication should be most useful to court administrators who have a professional interest in the working environments of their colleagues across Canada. Policy makers and analysts will also find *Profile of Courts in Canada* useful as a backdrop against which to analyze problems and opportunities confronting Canada's courts. *Profile of Courts in Canada* will also serve as a useful primer for anyone interested in the Canadian court system.

The design and format of this publication have been chosen to facilitate comparisons in selected areas of interest. Each jurisdiction is examined separately by court level and according to five primary categories. The latter are: Composition of the Courts, Geographic Distribution, Jurisdiction of Judges, Jurisdiction of Masters and Registrars, and Organization of Court Services. To further the goal of comparability, every effort has been made to ensure that the content and focus of each section remains consistent from chapter to chapter. It should, therefore, be possible to identify important similarities and differences among the court systems described.

The information contained within was originally gathered through site visits by Canadian Centre for Justice Statistics Courts personnel as part of the Program's "Court Management Studies: Site Description Project". The first year for which descriptions in this format were available was fiscal year 1984-85. This publication is an update of these first descriptions. It is anticipated that this publication will be updated every four to five years.





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# Newfoundland and Labrador







## **I. SUPREME COURT: COURT OF APPEAL**

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### **A. Composition of the Court**

This Court is established by the Judicature Act, R.S.N. 1986. The Court of Appeal consists of the Chief Justice of Newfoundland and five other justices who are all appointed federally by the Governor in Council as recommended by a federal judicial council. There is one supernumerary justice.

The Court sits with a quorum of three justices.

### **B. Geographic Distribution**

The Court of Appeal sits permanently in St. John's.

### **C. Jurisdiction of the Justices**

The Court of Appeal has appellate jurisdiction in both criminal and civil matters from the Trial Division, Unified Family Court, Provincial Courts (indictable offences) and designated boards and administrative tribunals.

Appeals from this Court are to the Supreme Court of Canada.

### **D. Jurisdiction and Duties of the Registrar**

The Registrar of the Supreme Court is the Registrar of the Court of Appeal and is appointed by the Lieutenant Governor in Council. The Registrar is assisted by one assistant deputy registrar who presides in the Court of Appeal. The Registrar of the Court of Appeal is also the Registrar of the Trial Division. The Registrar is assisted by a deputy registrar and two assistant deputy registrars in the Trial Division in St. John's, a deputy registrar and an assistant deputy registrar in Corner Brook, and an assistant deputy registrar in each of the other judicial centres.

A discussion of the duties of the Registrar may be found in the section on the Trial Division.

## **II. SUPREME COURT: TRIAL DIVISION**

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### **A. Composition of the Court**

This Court is established by the Judicature Act, S.N. 1986. The Trial Division consists of the Chief Justice of the Trial Division and 17 other judges of which

several were formerly judges of the District Court. There is one supernumerary judge.

Every judge of the Trial Division is a judge of the Unified Family Court, with one being appointed as presiding judge of the Unified Family Court.

### **B. Geographic Distribution**

The Supreme Court Trial Division sits permanently in St. John's, Brigus, Corner Brook, Gander, Grand Bank, Grand Falls and Happy Valley/Goose Bay. The Court goes on circuit regularly to Clarenville and Wabush.

### **C. Jurisdiction of the Justices**

The Trial Division is a court of original jurisdiction and, as such, has jurisdiction in all cases civil and criminal arising in the province except those matters excluded by statute. It also acts as a civil appellate and criminal appellate court.

#### **Civil Jurisdiction**

The Trial Division has original jurisdiction over all civil actions not expressly excluded by statute. However, cases generally involve financial disputes above the small claims limit of \$1,000.

The Supreme Court Trial Division hears appeals from the Provincial Court (Family Division) by way of stated case, and appeals from the Provincial Court (Small Claims Division) by way of trial de novo.

#### **Family Jurisdiction**

The Trial Division has original jurisdiction over nullity, judicial separation, corollary relief, divorce, matrimonial property, custody, access, guardianship, and interspousal Criminal Code offences except in St. John's where these matters fall under the jurisdiction of the Unified Family Court.

#### **Criminal Jurisdiction**

The Supreme Court Trial Division has unlimited jurisdiction over all criminal cases bestowed upon it by the Criminal Code and relevant criminal statutes. These include indictable offences under S. 427 of the Criminal Code and require a trial by judge and jury. The Court also has exclusive jurisdiction over indictable offences under the Combines Investigation Act which are heard by a judge sitting without a jury.

The Trial Division hears appeals from summary conviction offences in the Provincial Court (Criminal Division).

All appeals from the Supreme Court Trial Division are to the Supreme Court: Court of Appeal.

#### **D. Jurisdiction and Duties of Masters and Registrars**

Masters and registrars are officers of the the Court. The Registrar of the Supreme Court is appointed by the Lieutenant Governor in Council while masters are appointed by the Chief Justice of Newfoundland.

A master may hear and determine any interlocutory application or class of interlocutory application designated in writing by the Chief Justice of Newfoundland, and dispose of all non-contentious business in the administration of estates.

The Registrar has statutory authority to undertake the following duties:

- release garnishing orders;
- issue subpoenas to debtors;
- tax bills of costs;
- settle orders;
- settle cause books; and
- make declarations as to the state of title to land.

In addition to the above, the Registrar is responsible for the following:

- receiving, filing and having custody of all pleadings, petitions, reports, affidavits, bonds, notices, judgements and other papers and proceedings in every action or suit, matter and proceeding in the Court;
- having the care and custody of all documents ordered to be deposited for safekeeping or produced under any order of the Court or a judge;
- entering in a cause list all motions for the Court, and all entries for trial, appeals, special cases, and other business coming before the Court;
- certifying proceedings, examining and authenticating office copies of pleadings and other proceedings;
- signing all orders of the Court;
- signing all judgements and entering the same;

- keeping the minutes of the proceedings in Court and in chambers;
- sealing and signing all grants of probate, letters of administration, letters of guardianship and exemplifications thereof, which have been ordered by the Court or a judge;
- collecting the fees set out in the appropriate sections of the Rules of Court;
- keeping an account of all money paid into and out of Court; and
- supervising all persons employed in the Supreme Court.

The Registrar may assign any of the duties listed above to the Deputy Registrar, any of the assistant deputy registrars or any other clerk or officer of the Court.

#### **E. Estates Office**

The Estates Office of the Supreme Court acts under the direction of the Registrar of the Supreme Court who is assisted by an estates officer and staff. This Office administers estates and provides guardianship services bestowed by a specific court order, or by operation of the law. It also acts as the financial branch where monies are paid into and out of court.

### **III. SUPREME COURT: UNIFIED FAMILY COURT**

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#### **A. Composition of the Court**

This Court is established by the Unified Family Court Act, S.N. 1977 and is a division of the Supreme Court Trial Division. Every judge of the Supreme Court Trial Division is a judge of the Unified Family Court, but only one is appointed as the presiding judge of the Unified Family Court. Judges of the Trial Division may preside over the Unified Family Court at the request of the Chief Justice of the Trial Division.

#### **B. Geographic Distribution**

The Unified Family Court sits only in St. John's and serves the geographical area within a 25-mile radius of the city.

### C. Jurisdiction of Judges

Within the 25-mile judicial area of metropolitan St. John's, the Unified Family Court has exclusive jurisdiction for all family matters, including dissolution and annulment of marriage, judicial separation, support and maintenance, custody and access, adoption, guardianship, interspousal Criminal Code offences, and matters under the Child Welfare Act.

Appeals from the Unified Family Court are to the Supreme Court: Court of Appeal. The Unified Family Court has no appellate jurisdiction.

### D. Jurisdiction and Duties of the Administrator

The Administrator of the Unified Family Court is responsible for the overall administrative and case processing activities of the Court. Administration of the Court is divided into two segments, the Judicial arm and the Social Services arm. The Chief Clerk of the Unified Family Court is responsible for the Judicial arm and is assisted by a deputy clerk (trial coordinator), a maintenance officer and five support staff. Also provided is a judge's secretary. The Social Services arm is the responsibility of a senior counsellor who is assisted by three social workers.

## IV. PROVINCIAL COURT

### A. Composition of the Court

This Court is established by the Provincial Court Act S.N. 1974. There are five divisions of the court: Small Claims, Family, Youth, Traffic and Criminal.

The Court consists of the Chief Judge of the Provincial Court, an Associate Chief Judge, and 24 other judges appointed provincially by the Lieutenant Governor in Council based on the recommendations of a judicial council.

The Chief Judge determines the division in which a judge will sit. The Chief Judge has the power to supervise the judges and designate the case or matter or court facility in which a particular judge will act, and assign special duties considered appropriate.

### B. Geographic Distribution

The Provincial Court may sit at any place in the province for the orderly dispatch of the business of the Court. There are 16 Provincial Court locations

with permanent registries and resident judiciary, and 65 locations served on a regular circuit basis without permanent registries or resident judiciary.

### C. Jurisdiction of the Judges

Section 5 of the Provincial Court Act generally sets out the jurisdiction of the Court. The Court is a court of record, and every judge has jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a judge of the Provincial Court, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.

#### Small Claims Jurisdiction

The Court has jurisdiction in all civil matters where the amount claimed does not exceed \$1,000.

The Court has no jurisdiction over cases

- in which the title to land is brought into question;
- in which the validity of any devise, bequest, or limitation is disputed;
- for malicious prosecution, false imprisonment, defamation, criminal conversation, seduction or breach of promise of marriage; or
- against a judge of any court, justice or public officer for anything done while executing the duties of office.

Appeals from Small Claims Court are usually to the Supreme Court Trial Division.

#### Family Jurisdiction

The Provincial Court (Family Division) outside of the St. John's area has jurisdiction over marriage, support/maintenance, child welfare, legitimacy, paternity, adoption and interspousal Criminal Code offences. Appeals on family matters are to the Supreme Court Trial Division.

#### Youth Jurisdiction

The Provincial Court is a Youth Court under the meaning of the Young Offenders Act (Canada) and can hear all youth matters. Appeals on youth cases are to the Supreme Court Trial Division in summary matters and to the Supreme Court: Court of Appeal in indictable offences.



## Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a Provincial Court judge under Part XVI of the Criminal Code of Canada.

A Provincial Court judge has absolute jurisdiction where the accused is charged in an information

(a) with

- theft, other than theft of cattle,
- obtaining money or property by false pretences,
- possession of stolen property,
- having, by deceit, falsehood or other fraudulent means, defrauded the public or any person, whether ascertained or not, of any property, money or valuable security, where the subject matter of the offence does not exceed \$1000, and mischief under S.387(4), where the subject matter of the offence is not a testamentary instrument and where the alleged value of the subject matter of the offence does not exceed \$1,000;

(b) with an attempt to commit any offence referred to in paragraph (a); or with

- (c) gaming and betting;
- (d) betting, pool-selling, or book-making;
- (e) placing bets for consideration;
- (f) lotteries;
- (g) cheating at play;
- (h) operating a bawdy house;
- (i) driving while disqualified; and
- (j) fraudulently obtaining transportation.

For some more serious criminal offences, the accused person can elect to submit to the jurisdiction of the Provincial Court (Criminal Division) rather than take the case to the Supreme Court for trial.

Those cases include all indictable offences other than those listed in S. 427 of the Criminal Code (for which the Supreme Court has exclusive jurisdiction) and other than those where the Provincial Court judge has absolute jurisdiction under S. 483.

If the accused does not elect trial in the Provincial Court (Criminal Division), the Provincial Court judge must hold a preliminary hearing in order to ascertain whether there is enough evidence to commit the accused for trial in the Supreme Court.

In hybrid offences, a case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

Other acts from which charges are heard in the Criminal Division include:

- Narcotics Control Act;
- Food and Drug Act;
- Income Tax Act;
- Fisheries Act;
- Unemployment Insurance Act; and
- Migratory Birds Act.

Appeals in summary offence proceedings are to the Supreme Court Trial Division, and to the Supreme Court: Court of Appeal in indictable matters.

## D. Duties of the Clerks

In addition to participating in case processing activities, court clerks are appointed as justices of the peace for purposes of:

- taking informations;
- signing court documents except autopsy reports;
- signing warrants of committal, search warrants, and warrants for arrest; and
- endorsing affidavits.

Justices of the peace also provide services of endorsing affidavits and taking informations. These appointees operate on a fee-for-service basis.

## V. COURT SERVICES

### Organization of Court Services

Two branches of the Department of Justice provide services to the courts in Newfoundland.

The Law Courts Administration Branch provides all the staff who perform administrative, case processing, court reporting and sheriff services in the province.

The Administrative and Financial Services Branch provides central personnel, financial and administrative support services to all branches of the Department of Justice, including Law Courts Administration.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department of Justice and Law Courts Administration.

## LAW COURTS ADMINISTRATION

In Newfoundland, the Deputy Minister of Justice/Deputy Attorney General is responsible for overall Law Courts Administration and is assisted by the Registrar of the Supreme Court, the Administrator of the Unified Family Court, the High Sheriff of Newfoundland and the Associate Chief Judge of the Provincial Court. Through this Branch all of the services in the courts and court registries are provided. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses, and warrants for arrest;
- storing and retrieving court documents;
- trial scheduling;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing and maintaining the integrity of court exhibits;
- preparing interim or final court orders;
- scheduling justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;
- completing forms and compiling data for statistical analysis;
- providing information to the general public and to lawyers;
- preparing invoices and bills regarding the sale of transcripts;
- administering youth document records (access and destruction);
- making arrangements for circuit court sittings; and

- providing information for other services.

In Provincial Court locations outside of St. John's, court officers act as court clerks.

Further, this Branch employs a law librarian who is responsible for maintaining all law libraries including those of the Supreme Court. The main collection in St. John's is owned and staffed by the Law Society of Newfoundland with accommodations provided in the main Trial Division Court House.

### Sheriff's Office

The authority for the appointment of the High Sheriff, sub-sheriffs and bailiffs lies in The Judicature Act, 1986. Pursuant to S. 2 of the Criminal Code, the sheriff is a peace officer and, in Newfoundland, has province-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is the ex-officio Admiralty Marshal.

Sheriffs perform a number of services related to both criminal and civil case processing and court operations in the Supreme Court, as follows:

- the service of criminal documents
  - criminal summonses and subpoenas;
- the service of civil documents
  - civil summonses and subpoenas, garnishing orders, petitions, notices and any other civil documents;
- jury management
  - summon, pay, provide comforts for juries;
  - prepare attendance lists;
  - seclude and guard juries;
- executions
  - writs of seizure and sale and other writs of execution issued under the Supreme Court Rules;
  - writs of fieri facias (federal courts);
  - warrants to arrest ships;
  - sheriff sales (land); and
  - orders of replevin.

In addition to the High Sheriff, there are currently two sub-sheriffs and three bailiffs on staff.

Approximately 35 deputy-sheriffs provide service of documents on a fee-for-service basis and are paid an annual retainer by the Department of Justice.

In Newfoundland, court security and escort of prisoner services are provided by police agencies except in the Supreme Court and Provincial Court in St. John's where court security is provided by court orderlies.

### **Court Reporting**

Court reporters who record proceedings are full-time staff in the Law Courts Administration Branch. They cover all court cases in all courts except for small claims matters. Court reporters are paid a salary for their court services.

The administrative responsibilities of the court reporters include:

- maintaining recording equipment and supplies;
- setting up reporting/recording systems in the courtroom and monitoring the recordings onto the tape during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;

- keeping inventory and storage of notes and recorded tapes; and
- recording verbatim all remarks and evidence in shorthand.

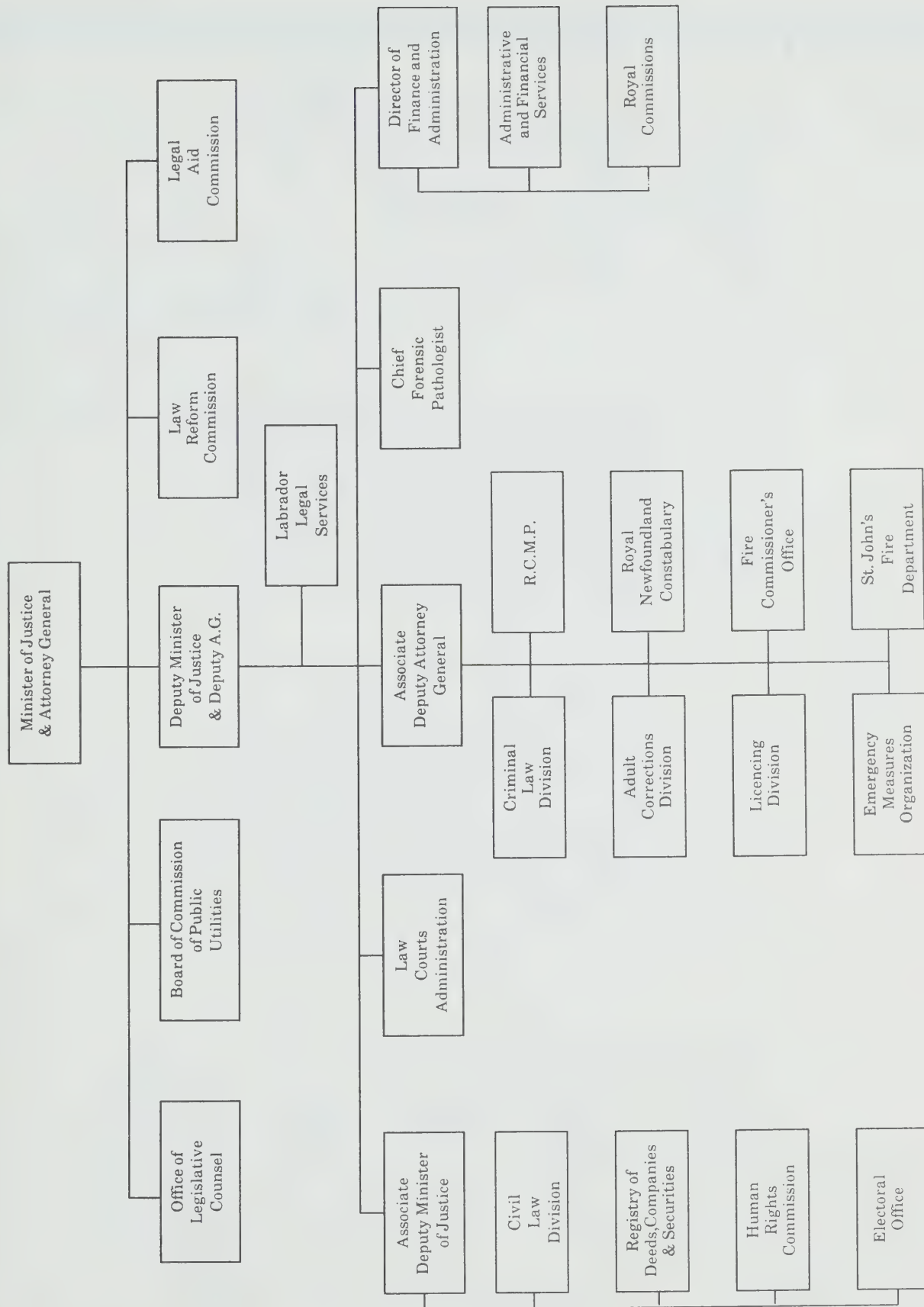
Transcripts are prepared for all oral judgements given in the Supreme Court. Transcripts are also automatically prepared for all preliminary inquiries and reciprocal maintenance hearings.

Original copies of transcripts are filed with the registry where the case originated. Copies are sent to Crown Counsel and to defense counsel. All copies of Appeal Books are given to the party initiating the appeal.

### **THE ADMINISTRATIVE AND FINANCIAL SERVICES BRANCH**

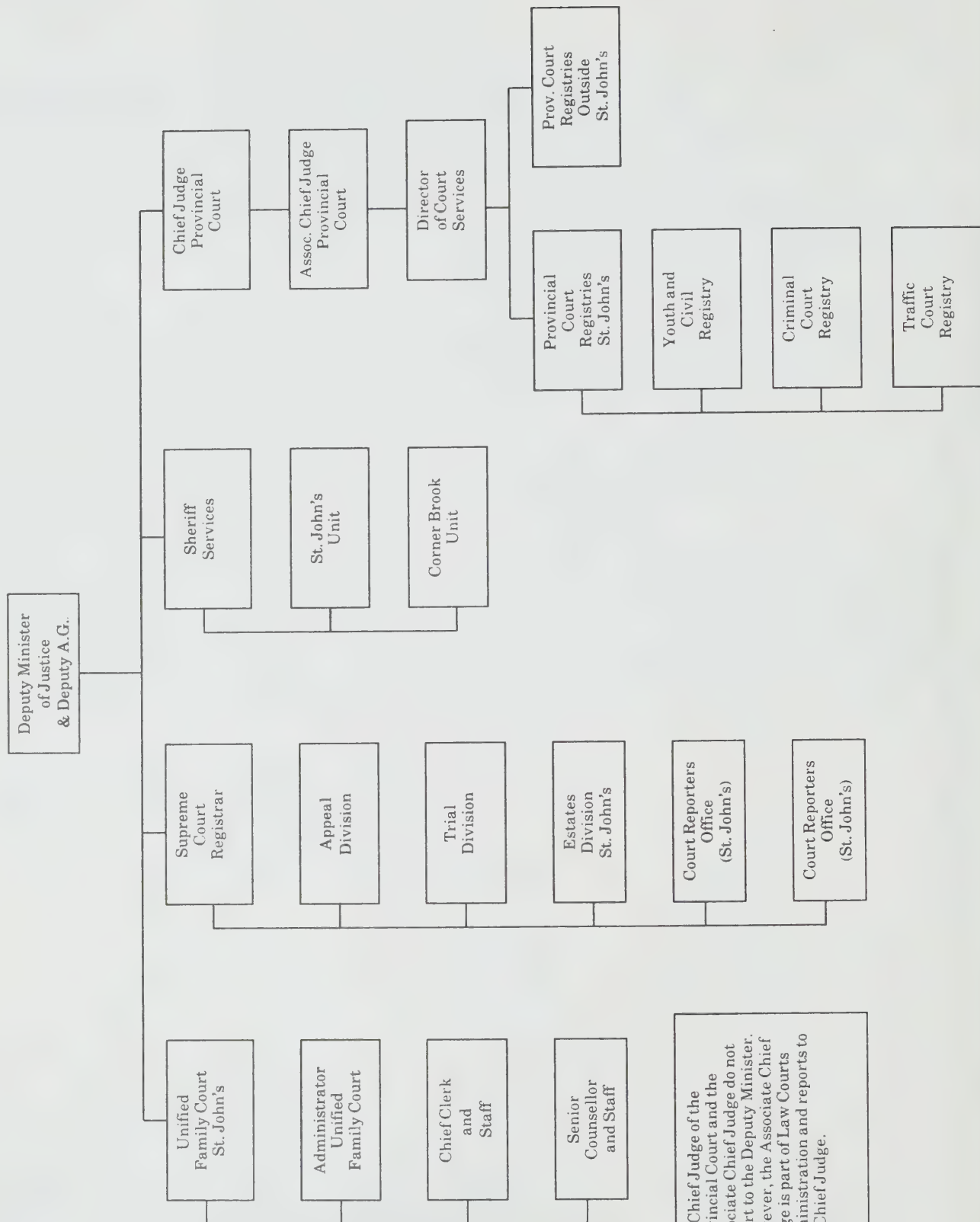
The Administrative and Financial Services Branch is responsible for providing centralized personnel, financial and administrative support services to the Department, including the Law Courts Administration Branch. This Branch coordinates the budget procedures and acts as a liaison between the Law Courts Administration Branch and other government agencies.

# DEPARTMENT OF JUSTICE, NEWFOUNDLAND





# LAW COURTS ADMINISTRATION, NEWFOUNDLAND



**NOTE:** The Chief Judge of the Provincial Court and the Associate Chief Judge do not report to the Deputy Minister. However, the Associate Chief Judge is part of Law Courts Administration and reports to the Chief Judge.

# Prince Edward Island





## **I. SUPREME COURT: COURT OF APPEAL**

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### **A. Composition of the Court**

This Court is established by the Supreme Court Act, R.S.P.E.I. 1987. It consists of the Chief Justice and two other justices.

Every proceeding in the Court of Appeal must be heard by not fewer than three justices sitting together.

### **B. Geographic Distribution**

The Court of Appeal sits permanently in Charlottetown and does not go on circuit.

### **C. Jurisdiction of Justices**

An appeal lies to the Court of Appeal from a decision of the Supreme Court Trial Division or from an order of a judge of that court.

### **D. Jurisdiction and Duties of the Prothonotary**

The Prothonotary of the Court of Appeal is also the Prothonotary of the Supreme Court Trial Division. The jurisdiction and duties of the Prothonotary are the same as those described for the Supreme Court Trial Division.

## **II. SUPREME COURT: TRIAL DIVISION**

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### **A. Composition of the Court**

This Court is established by the Supreme Court Act R.S.P.E.I. 1987. It consists of the Chief Justice and three other justices appointed federally by the Governor in Council. There are two supernumerary justices.

The Court is composed of four divisions, namely: the General Division; the Family Division; the Estates Division; and the Small Claims Division. All Supreme Court justices can hear cases related to these areas.

### **B. Geographic Distribution**

The Supreme Court sits permanently in Charlottetown and goes on circuit to Summerside and Georgetown as required. Charlottetown and Summerside each have a Supreme Court registry.

### **C. Jurisdiction of Justices**

The Supreme Court Act sets out the jurisdiction of the Supreme Court. It is a court of original jurisdiction and has jurisdiction in all cases civil and criminal arising in the province. It also hears all appeals arising from the Provincial Court.

#### **General Division**

The Supreme Court General Division has jurisdiction over all matters except family, estate and small claims cases. The General Division hears appeals from Provincial Court decisions.

The General Division has jurisdiction in the following matters:

- all matters relating to trusts;
- the redemption or foreclosure of mortgages;
- the sale and distribution of the proceeds of property subject to a charge or lien;
- the raising of portions or other charges on land;
- the partition and sale of real and personal property;
- fraud, mistake, accident, undue influence and duress;
- all matters relating to specific performance;
- all matters relating to injunctions;
- the dissolution of partnership, appointment of receivers and the taking of partnership accounts;
- the power to appoint a receiver;
- the rectification, setting aside, or cancellation of deeds or other written instruments; and
- the distribution of monies of absent persons.

#### **Family Division**

The Family Division has jurisdiction in respect of the following matters:

- formation and dissolution of marriage;
- judicial separation and separation orders;
- actions and causes concerning matrimonial property including injunctions, partitions and settlements;
- restitution of conjugal rights;
- jactitation of marriage;
- declarations of status including validity of marriage, legitimacy and legitimation;
- alimony and maintenance (interspousal) including protection orders for deserted wives;
- maintenance of children including affiliation proceedings and agreements;



- enforcement of alimony and maintenance orders including reciprocal enforcement of these orders;
- property rights, support obligations and other matters under the Family Law Reform Act;
- custody and access;
- adoption;
- charges or proceedings under the Criminal Code or any statute of the province relating to non-support or interspousal assaults, school attendance, children in need of protection and juvenile delinquency;
- guardianship of the person and property;
- interspousal and familial torts;
- commitment and treatment of mentally ill or mentally defective adults and minors; and
- relief for family dependents on death.

### **Estates Division**

The Estates Division has jurisdiction in probate matters as outlined in the Probate Act.

### **Small Claims Division**

The Small Claims Division has original jurisdiction:

- in all personal actions of debt, covenant, assumpsit and tort, where the debt or damages claimed do not exceed the prescribed sum;
- in actions of replevin where the value of the property sought to be replevied does not exceed the prescribed sum;
- in any action for the recovery of the amount due upon a money bond where the real debt does not exceed the prescribed sum, notwithstanding that the amount of the penalty may exceed that sum;
- in any action on a bond the value of which does not exceed the prescribed sum given to the sheriff or otherwise in any case in the Supreme Court, whatever may be the penalty; and
- in any action on a bond given to secure the payment of money payable by instalments, although the amount remaining unpaid at the time of action brought exceeds the prescribed sum, if the amount of the instalment or instalments due does not exceed that sum.

The Small Claims Division may also hear the following:

- any action where, after an admitted setoff of any debt or demand claimed by the defendant, the amount claimed does not exceed the prescribed sum; and
- any action whereby the plaintiff has abandoned that amount of the claim which exceeds the

prescribed sum such that the remainder of the claim subsequently falls within the prescribed sum (the resulting judgement discharges fully all demands in respect of the claim).

The issue of facts and the assessment or inquiry of damages in every small claims action are to be heard, and judgement subsequently rendered, by a judge sitting without a jury.

The current limit on small claims is \$2000.

### **Chambers Jurisdiction**

Supreme Court judges sitting in chambers have jurisdiction to hear all originating applications, and, unless made in the course of trial, all interlocutory applications.

Generally, the following matters can be heard and disposed of in chambers:

- appeals from applications to confirm, vary or set aside orders, reports or certificates granted by court clerks;
- actions or issues in actions which have been ordered to be proceeded with by affidavit or on documents before the Court, and special cases and hearings on a point of law;
- applications for summary judgement, applications for judgement in default of pleading, and applications for judgement on the basis of an admission;
- applications to set aside or vary a judgement; and
- matters which being otherwise proceeded with by action are ordered to be disposed of in chambers.

### **D. Jurisdiction and Duties of the Prothonotary**

The Prothonotary is an officer of the Court and is appointed under the Civil Service Act. The Prothonotary is responsible for carrying out the duties assigned to him or her by any specific statute or enactment by the Rules of Court.

These duties include the following:

- acting as examiner in the Court;
- taxing costs respecting proceedings in the Court;
- registering orders for the sale, leasing or mortgaging of any lands in administration, partition, infant or mental incompetency proceedings;

- executing conveyances, transfers or mortgages ordered by the Court;
- selling mortgaged premises under order of the Court;
- inquiring into the merits of an application to the Court for an order for the sale or other disposition of the real or personal property seized, possessed or entitled to a term of years by an infant or mentally incompetent person;
- settling appeal books;
- registering bankruptcies;
- keeping proper accounts of the cash deposits and investments and other effects being held or administered by the Court; and
- case processing.

The Prothonotary is also responsible for ensuring that the administrative duties in the court registry are carried out.

### III. PROVINCIAL COURT

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#### A. Composition of the Court

This Court is established by the Provincial Court Act R.S.P.E.I. 1974. The Court is composed of the Adult Criminal Division and the Youth Division.

The Provincial Court consists of the Chief Judge and two other judges appointed provincially by the Lieutenant Governor in Council. All appointments are to both the Criminal Division and the Youth Division.

#### B. Geographic Distribution

The Provincial Court may sit at any place in the province for the orderly dispatch of the business of the Court. There are five locations where the Provincial Court (Criminal and Youth) sits. Charlottetown and Summerside have permanent locations while Alberton, Souris and Georgetown are served on circuit. These court locations have permanent Provincial Court registries.

#### C. Jurisdiction of Judges

Section 6 of the Provincial Court Act generally sets out the jurisdiction of the Court. The Provincial Court is a court of record, and the Court and every judge have jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a magistrate, provincial magistrate, or one or more justices of the peace under any act of the Province or of Canada.

#### Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

#### Youth Jurisdiction

All Provincial Court judges are also Youth Court judges for the purposes of the Young Offenders Act (Canada), and can hear all youth matters.

#### D. Jurisdiction and Duties of Judicial Clerks

In Prince Edward Island, Provincial Court case processing and administrative tasks are performed by legal services officers and judicial clerks. The legal services officer is generally responsible for administrative and supervisory functions, but also assists the judicial clerk with counter services and case processing activities as required. Both positions include appointments as justices of the peace. The functions performed include:

- swearing of informations;
- issuing service such as summonses, warrants for arrest, search warrants, and appearance notices;
- taking pleas in provincial statutes and assessing fines;
- conducting show cause hearings;
- conducting bail hearings;
- releasing remandees; and
- preparing interim and final court orders.

The Provincial Court in Alberton and Souris are each staffed by a part-time clerk/justice of the peace responsible for maintaining the local registry and hearing guilty pleas in summary offences.

### IV. COURT SERVICES

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#### Organization of Court Services

Court services in Prince Edward Island are provided by the Judicial Services Division of the Department of Justice. This Division provides all staff necessary for court administration, case processing, sheriff services and court reporting.

The Probation and Family Court Services Division provides two full-time family counsellors to the family court.

The Administration Division of the Department of Justice prepares budget estimates, maintains personnel records, and acts as an agent for Treasury Board requests and submissions.

The organization charts at the end of this chapter outline the location of these services within the overall structure of the Department of Justice and the Judicial Services Division.

## JUDICIAL SERVICES DIVISION

### Court Administration

Under the Deputy Minister of Justice, the Prothonotary is responsible for the administrative activities of the courts. Through this office, the services to all court locations are coordinated.

The administrative duties include:

- receiving and processing legal documents;
- storing and retrieving court documents;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing, maintenance and releasing of court exhibits;
- providing court stenographers in court who open and close court, call cases, administer oaths, monitor electronic recording equipment, take custody of documents and evidence submitted in court, document log sheets, and maintain exhibits in the courtroom during trials;
- trial scheduling;
- witness management;
- monitoring the enforcement of court orders;
- completing forms for statistical purposes;
- access and destruction of youth documents and records;
- making arrangements for circuit court sittings; and
- law library maintenance.

### Sheriff Services

The authority for the appointment of a sheriff lies in the Sheriffs Act R.S.P.E.I. 1974. Pursuant to S. 2 of the Criminal Code of Canada, the sheriff is a peace officer. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is a marshall of the Federal Court in admiralty causes.

Sheriffs perform a number of services related to both criminal and civil case processing and court operations including:

- the service of civil documents
  - civil summonses and subpoenas, originating notices, garnishing orders, petitions, notices and any other civil documents; and
  - general process serving;
- jury management
  - summon, provide comforts for juries;
  - prepare attendance lists;
  - seclude and guard juries; and
  - attend to and look after a jury during a trial;
- escorts
  - accused and convicted persons both adult and young offenders after sentence to federal detention centres, and as a supplement to provincial correctional centre escort services especially with young offenders and in emergency situations;
  - family court matters including arrest on an order of the judge, and ensuring litigants' attendance in court (default under maintenance order);
- executions
  - execution orders and sale and other writs of execution issued;
  - writs of fieri facias (federal courts);
  - warrants to arrest ships;
  - sheriff sales (land);
  - recovery orders;
  - attachment orders;
  - arrests on civil warrants of committal;
  - evictions; and
  - landlord and tenant seizures;
- prisoner holding
  - supervise holding units in courthouse in Charlottetown;
  - provide food for persons in custody while in holding unit awaiting court proceedings; and
  - guard R.C.M.P. prisoners in holding unit;
- bailiff
  - seize, detain, advertise and sell goods under chattel mortgages and conditional sale agreements;
- auctioneer
  - when ordered by the court as in a foreclosure proceeding;



- power of sale proceedings under a land mortgage;
- personal property under execution orders;
- statutory execution on lands;
- chattel mortgages and conditional sale agreements;
- sales under the Garage Keepers Lien Act; and
- sales under the Landlord and Tenant Act (commercial leases).

All sheriffs receive a salary, as well as fees for service.

Court security in Prince Edward Island is the responsibility of the police.

### **Court Reporting and Recording Services**

Court stenographers who record proceedings are all full time staff in the Judicial Services Division. They are present at all civil and criminal trials, appeals and chambers matters, using electronic recording equipment. Reporting of discoveries is done through private individuals. Stenographers are paid a salary for their court services and do not receive fees for the preparation of transcripts. Revenues from the sale of transcripts go to the Department of Finance, Consolidated Revenue Fund.

In addition to providing secretarial assistance to the judiciary, court stenographers are also responsible for the following:

- monitoring electronic recording equipment;
- maintaining the court log of participants and events during proceedings;
- maintaining recording equipment and supplies;
- transcribing court tapes; and
- preparing invoices and billings.

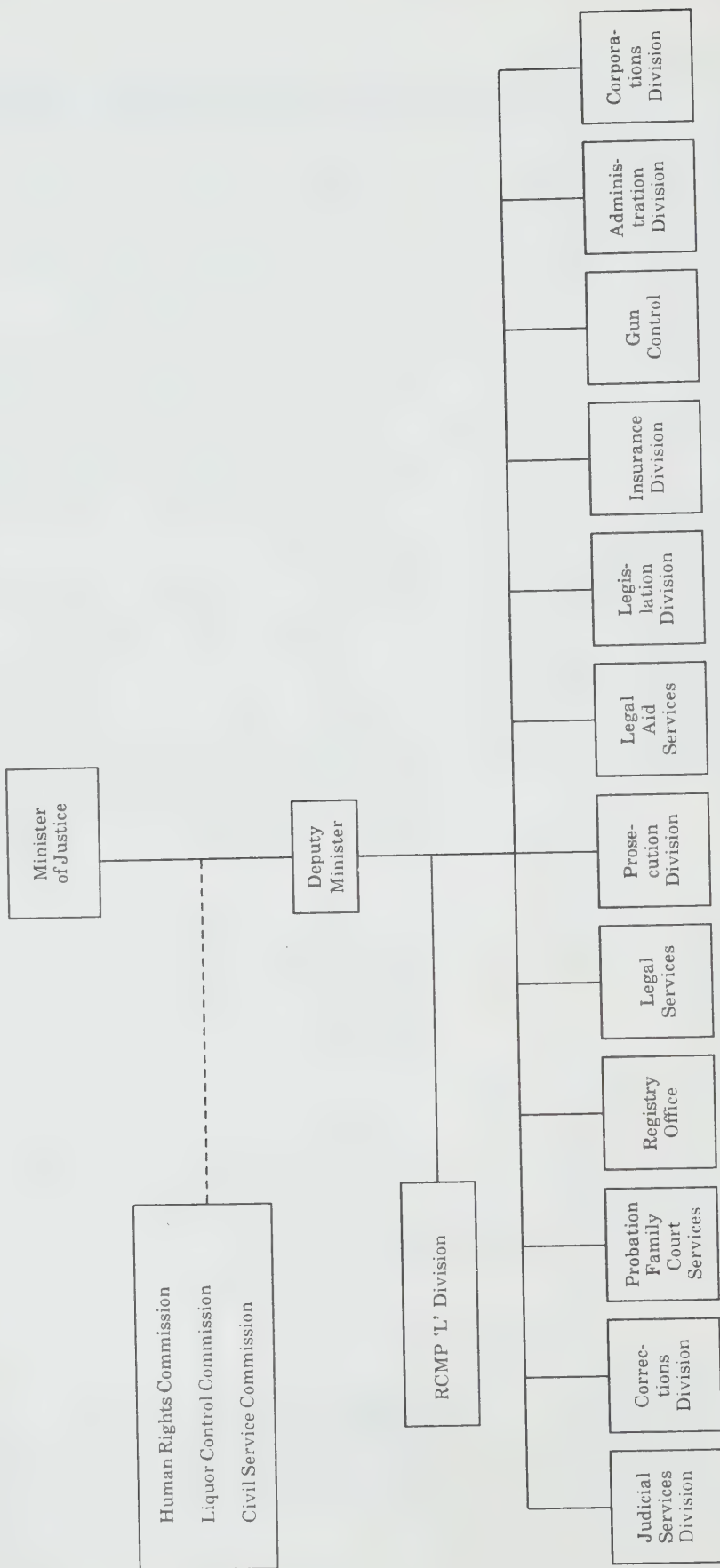
Transcripts are provided for all oral judgements and submitted to the judge. Transcripts are also automatically prepared for all preliminary inquiries and reciprocal maintenance hearings. Original copies of transcripts are filed with the registry where cases originated. Copies are sent to Crown Counsel and defence counsel, and to plaintiff and respondent in civil matters.

### **ADMINISTRATION DIVISION**

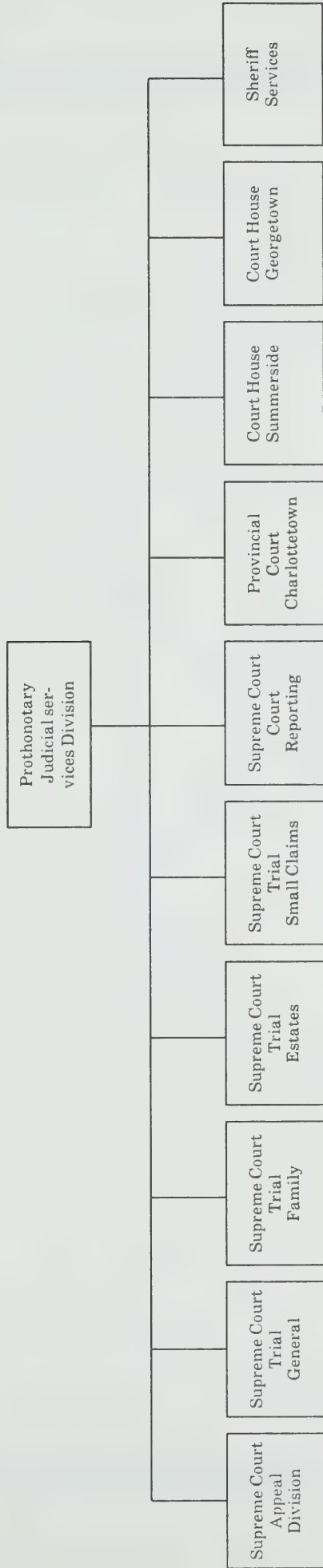
The Administration Division of the Department of Justice is responsible for providing centralized budgeting, and for purchase and supply services to the Department including the Judicial Services Division. In addition, it maintains personnel records and acts as a liaison between the Judicial Services Division and the Deputy Minister, Cabinet, and Treasury Board.



DEPARTMENT OF JUSTICE, PRINCE EDWARD ISLAND



# JUDICIAL SERVICES DIVISION, PRINCE EDWARD ISLAND





# Nova Scotia







## **I. SUPREME COURT: APPEAL DIVISION**

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### **A. Composition of the Court**

This Court is established by the Judicature Act, S.N.S., 1972. The Appeal Division consists of the Chief Justice of Nova Scotia and six other justices who are appointed federally by the Governor in Council. There is one supernumerary justice.

The Court generally sits with a quorum of three justices, and on occasion, with five. It may sit with one or more divisions of three justices. One justice may hear interlocutory matters in chambers.

### **B. Geographic Distribution**

The Appeal Division sits regularly in Halifax.

### **C. Jurisdiction of Justices**

Section 6 of the Judicature Act sets out the jurisdiction of the Appeal Division. It has appellate jurisdiction in both civil and criminal matters from the Trial Division and the County Court.

### **D. Jurisdiction and Duties of the Registrar**

Appointed by the Lieutenant Governor in Council, the Registrar of the Appeal Division may hear interlocutory applications, administer estates, sign all orders of Appeal Division decisions, and ensure that all appeals are perfected.

The Registrar of the Appeal Division is also appointed as Prothonotary of the Supreme Court Trial Division, Clerk of the County Court, Clerk of the Crown, Accountant General, Registrar in Bankruptcy, Clerk of the Small Claims Court, and Registrar of the Supreme Court (Trial Division) for Divorce and Matrimonial Causes.

## **II. SUPREME COURT: TRIAL DIVISION**

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### **A. Composition of the Court**

This Court is established by the Judicature Act, S.N.S., 1972. The Supreme Court Trial Division consists of the Chief Justice of the Trial Division and 11 other justices who are appointed federally by the Governor in Council. Additionally, there is one supernumerary justice.

### **B. Geographic Distribution**

The Trial Division sits regularly in Halifax, and in 17 other locations with permanent registries, as required, in spring and fall sessions.

### **C. Jurisdiction of Justices**

Section 7 of the Judicature Act sets out the general jurisdiction of the Court. The Trial Division is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the province, except those matters or cases expressly excluded by statute.

#### **Civil Jurisdiction**

Civil jurisdiction is unlimited as to the monetary amount involved but cases generally deal with financial disputes over \$50,000.

#### **Family Jurisdiction**

The Trial Division has jurisdiction over nullity, judicial separation, corollary relief, divorce, matrimonial property, custody, access, legitimacy and intra-family Criminal Code offences.

#### **Criminal Jurisdiction**

The Trial Division has original jurisdiction in indictable offences tried by judge and jury.

### **D. Jurisdiction of Local Judges**

Under S. 23 of the Judicature Act, County Court judges may exercise the jurisdiction of Supreme Court judges at the request of the Chief Justice of Nova Scotia or the Chief Justice of the Trial Division. A County Court judge exercising jurisdiction under this section is called a local judge of the Trial Division of the Supreme Court.

### **E. Jurisdiction and Duties of Prothonotaries and Clerks**

Prothonotaries and clerks are appointed by the Lieutenant Governor in Council in accordance with the Prothonotaries and Clerks of the Crown Act, R.S.N.S., 1967. Where a Supreme Court order is consented to by all parties, a prothonotary may:

- change solicitor on the record;
- amend any pleading;
- appoint a special examiner to take evidence abroad;

- fix a date for assessing damages, taking accounts, advertising or creditors;
- release any exhibit;
- confirm a verbal order made by the Supreme Court;
- discontinue a proceeding;
- dismiss a proceeding of any party who is not a person under disability;
- waive the provision for any rule;
- grant an order to issue and serve a petition for divorce outside of the province;
- tax solicitors' bills of costs;
- grant leave to review an originating notice for a further period of six months;
- grant leave to renew an execution order for a further period of 12 months; or
- grant other orders for interlocutory or final judgement.

In addition, prothonotaries supervise persons employed in the court registry.

In Nova Scotia all prothonotaries are also appointed as clerks of the Crown for processing of Criminal Code elections to County Court, clerks of the County Court and clerks of the Small Claims Court. In Halifax, there are two deputy prothonotaries. The prothonotary at Halifax is, by tradition, a member of the Nova Scotia Bar.

### III. COUNTY COURT

#### A. Composition of the Court

This Court is established by the County Court Act, R.S.N.S., 1967. The County Court consists of the Chief Judge of the County Court and nine other judges who may also sit as local judges of the Supreme Court. All judges are appointed federally by the Governor in Council.

#### B. Geographic Distribution

The County Court sits in 20 permanent locations with permanent registries shared with the Supreme Court Trial Division, and in 12 circuit locations each with a permanent registry. There are seven County Court districts and at least one judge is located in each district.

#### C. Jurisdiction of Judges

The jurisdiction conferred on the County Court is concurrent with the jurisdiction of the Supreme Court Trial Division except for certain monetary and subject matter restrictions.

#### Civil Jurisdiction

The County Court has original jurisdiction in actions where the amount in dispute does not exceed \$50,000. Actions regarding the validity of any devise, bequest or limitation, and the recovery of land are excluded.

#### Family Jurisdiction

The County Court has jurisdiction over marriage, custody, access, adoption and change of name.

#### Small Claims

In Nova Scotia the Small Claims Court is a division of the County Court. All actions are heard by fee paid adjudicators (practising lawyers) who are appointed as required by the Lieutenant Governor in Council. Pursuant to S. 9 of the Small Claims Court Act, a person may make a claim:

- seeking a monetary award in respect of a matter or thing arising under a contract or a tort where the claim does not exceed \$3,000 inclusive of any claim for general damages but exclusive of interest;
- notwithstanding S. 5(1), for municipal rates and taxes, except those which constitute a lien on real property, where the claim does not exceed \$3,000 exclusive of interest;
- requesting the delivery to him or her of specific personal property where the personal property does not have a value in excess of \$3,000; or
- respecting a matter or thing authorized or directed by an Act of the Legislature to be determined pursuant to this Act.

The Small Claims Court does not have jurisdiction in actions:

- for the recovery of land or an estate or interest therein;
- in respect of a dispute concerning the entitlement of a person under a will, settlement, or on an intestacy;
- for defamation or malicious prosecution;
- involving a dispute between a landlord and a tenant; and
- for general damages in excess of \$100.

#### Criminal Jurisdiction

The County Court has concurrent jurisdiction with the Supreme Court Trial Division over all criminal matters where the accused elects trial by judge alone. The County Court does not have jurisdiction

to hear any action which is within the criminal jurisdiction of the Provincial Court.

The County Court hears appeals from the Provincial Court on summary Criminal Code and provincial statute offences. Appeals from the Small Claims Court are to a County Court judge by way of stated case. Appeals for actions originating in the County Court are in every case to the Supreme Court Appeal Division.

#### **D. Duties of the Clerks**

Clerks of the County Court are appointed by the Lieutenant Governor in Council pursuant to the County Court Clerks Act, R.S.N.S., 1967. Their responsibilities include the following:

- issuing all required writs, process, and orders of the County Court for the district;
- filing all papers in actions belonging to the clerk's office;
- making a formal record of all actions, orders, judgements and proceedings in a manner and form prescribed by the Attorney General;
- preparing dockets of the entries of actions and appeals for trial at any sittings and chambers entries according to the mode prevailing in the Supreme Court; and
- accounting for monies paid into the Court.

### **IV. PROBATE COURT**

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#### **A. Composition of the Court**

This Court is established by the Probate Act, R.S.N.S., 1967. It consists of County Court judges who sit as Probate Court judges.

#### **B. Geographic Distribution**

This Court sits in the same locations as the County Court.

#### **C. Jurisdiction of Judges**

Section 10 of the Probate Act sets out the jurisdiction of the Court. The Court has the jurisdiction and power to:

- grant probates of wills and letters of administration, whether general or limited, of the estates of deceased persons;

- revoke or cancel such probates of wills and letters of administration;
- effect and carry out the judicial administration of the estates of deceased persons through the representatives, and to hear and determine all questions, matters and things in relation thereto necessary for such administration; and
- appoint guardians and to take the accounts of such guardians under the Guardianship Act.

All appeals from Probate Court are to the Appeal Division of the Supreme Court.

#### **D. Duties of the Registrar**

Appointed by the Lieutenant Governor in Council, the Registrar of Probate is responsible for registering all letters granted by the Court and filing and registering all orders and decrees. Contentious matters are referred to a County Court judge for adjudication.

### **V. PROVINCIAL COURT**

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#### **A. Composition of the Court**

This Court is established by the Judges of the Provincial Court Act, S.N.S., 1976. The Provincial Court consists of the Chief Judge of the Provincial Court and 27 other judges who are appointed provincially by the Lieutenant Governor in Council.

#### **B. Geographic Distribution**

The Provincial Court sits in 16 locations with permanent registries, and in 23 circuit locations.

The City of Halifax has one municipally funded Provincial Court which hears all Provincial Court matters which arise in the City of Halifax. The employees of this Court are hired and paid by the City of Halifax.

#### **C. Jurisdiction of Judges**

Section 7 of the Judges of the Provincial Court Act generally sets out the jurisdiction of the Court. It is a court of record and every judge has jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a judge of the Provincial Court, a magistrate, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.



## Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

## Youth Jurisdiction

The Provincial Court is a Youth Court within the meaning of the Young Offenders Act, and has jurisdiction to hear cases involving 16 and 17 year old offenders. Cases involving offenders under the age of 16 are heard in the Family Court.

Appeals of Young Offenders Act matters are to the Supreme Court: Appeal Division, while all other family matters are to the County Court.

### D. Duties of the Clerks

Each permanent Provincial Court location has a chief clerk who is primarily responsible for supervising registry case processing activities. All chief clerks have justice of the peace appointments and can perform quasi-judicial functions as required.

In addition, chief clerks supervise persons employed in the court registry.

## VI. FAMILY COURT

### A. Composition of the Court

This Court is established under the Family Court Act, R.S.N.S., 1963 and is administered by the Department of Community Services. It consists of a Chief Judge and 15 other judges who are appointed provincially by the Lieutenant Governor in Council.

### B. Geographic Distribution

The Family Court sits in nine permanent locations and in 16 circuit locations.

### C. Jurisdiction of Judges

The Family Court is a court of summary procedure with jurisdiction in such family matters as maintenance, child protection, child custody and family violence. The Family Court is also designated as a Youth Court under the Young Offenders Act (Canada) and the Young Persons Summary

Proceedings Act (Nova Scotia) for matters involving young people aged 12 to 15 years. The Court also has jurisdiction in the following areas:

- matters under the Family Maintenance Act, the Maintenance Orders Enforcement Act, the Children's Services Act, the Employment of Children's Act and the Infants Custody Act;
- S. 168 of the Criminal Code regarding persons who endanger the morals of children;
- S. 197 of the Criminal Code regarding the failure to provide the necessities of life for children under the age of 16 years or for a spouse;
- S. 245, S. 745 and S. 666 of the Criminal Code dealing with common assaults or threats involving husband and wife or parent and child;
- sections of the Solemnization of Marriage Act relating to the performance of marriage and to hearing applications from persons under the age of 16 years desiring permission to marry; and
- other acts or matters as the Governor in Council may from time to time approve.

The Court may also hear applications to vary divorce orders that are registered with the Family Court and may recommend changes respecting maintenance, access and custody to the Supreme Court of Nova Scotia.

Appeals of Young Offenders Act matters are to the Supreme Court, Appeal Division while all other family matters are to the County Court.

### D. Duties of the Clerks

Clerks of the Family Court supervise and participate in case processing activities, are commissioners of oaths and are appointed as justices of the peace for the purposes of signing court documents and taking informations.

## VII. COURT SERVICES

### Organization of Court Services

Two branches of the Department of the Attorney General provide support services to the courts.

Courts and Registries provides staff who perform all local administrative, case processing, court reporting, sheriff services and library services necessary for the operation of Nova Scotia's courts.

The Finance and Administration Branch provides central support services related to the development, direction, implementation and maintenance of the financial, personnel, program evaluation and administrative activities for all branches of the Attorney General including Courts and Registries.

The Department of Community Services administers the Family Court in Nova Scotia. The Department pays all Family Court judges and staff. Only sheriff services are provided through the Department of the Attorney General.

The organization charts at the end of this chapter indicate where departmental services are located within the overall structure of the Department of the Attorney General of Nova Scotia and the Courts and Registries Branch. The Family Court is more fully discussed in the section entitled Family Court Administration.

## COURTS AND REGISTRIES BRANCH

### Court Administration

Reporting to the Executive Director, the Director of Courts and Registries is responsible for the administration of all levels of court (except Family) in Nova Scotia. Through this Branch all of the services in the court registries for all of the courts (with the exception of the municipally funded Provincial Court in Halifax) are provided. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses and warrants for arrest;
- storage and retrieval of court documents;
- trial scheduling and co-ordinating trial participants including witnesses;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing and maintaining the integrity of court exhibits;
- preparing interim or final court orders;
- scheduling justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;

- completing forms and compiling data for statistical analysis;
- providing information to the general public and to lawyers;
- administering youth document records (access and destruction);
- making arrangements for circuit court sittings; and
- providing information necessary for other related services such as monitoring of restitution and maintenance.

### Sheriff Services

Sheriffs are appointed by the Lieutenant Governor in Council pursuant to the Sheriffs Act, R.S.N.S. 1967. Pursuant to S. 2 of the Criminal Code, the Sheriff is a peace officer and in Nova Scotia has province-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the Sheriff is a marshal or deputy marshal of the Federal Court in admiralty causes.

Sheriffs perform a number of functions related to civil and criminal case processing and court operations in all courts. They include:

- the service of civil documents
  - civil summonses and subpoenas, garnishing orders, petitions, notices and other civil documents;
- court security
  - escort and protect judges while attending court;
  - supervise and protect accused;
  - protect the public attending court;
  - protect witnesses; and
  - arrest on order of the judge (contempt);
- jury management
  - provide comforts for juries; and
  - seclude and guard juries;
- escorts
  - accused and convicted persons both adult and young offenders on remands, after first appearance, from lockup or detention centre to court, or after sentence to provincial or federal detention centres; and
  - witnesses when in custody;
- executions
  - writs of seizure and sale and other writs of execution issued under the Supreme Court Rules;
  - writs of fieri facies (federal courts);

- warrants to arrest ships;
- sheriff sales (land);
- orders of replevin;
- arrests on warrants for non-payment of fines;
- arrests on civil warrants of committal; and
- evictions;
- provincial judge inquiries (Fatality Inquiries Act)
  - provide comforts for jury;
  - seclude and guard juries; and
  - escort of witnesses when in custody; and
- prisoner holding
  - supervise holding units in courthouses; and
  - provide food for persons in custody while in holding unit awaiting court proceedings.

Police agencies provide court security in the Halifax City Court and assist the sheriffs as required in other court locations throughout the province. In some smaller court registries, prothonotaries and their staff perform the functions of the Sheriff.

### **Court Reporting**

Court reporters who record proceedings are full-time staff in the Courts and Registries Branch. They cover all cases in all courts except for small claims matters. Reporters are paid a salary for their services and do not receive fees for the preparation of transcripts.

The administrative responsibilities of the reporters and recorders include:

- the maintenance of recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto the tape during proceedings;
- maintaining a written log of participants and events during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription and playback;
- preparing invoices and billings;
- acting as clerks while on circuit, as requested; and
- providing secretarial services to the judiciary.

Transcripts are provided forthwith for all oral judgements given in the County and Supreme Court and are submitted to the judge. Transcripts are also automatically prepared for all preliminary inquiries

and upon request in Provincial Court trials. Daily transcripts are generally prepared immediately following the hearing.

Original copies of transcripts are filed with the registry where the case originated. Copies are sent to Crown Counsel and to defense counsel. All copies of Appeal Books are given to the party initiating the appeal.

### **Library Services**

The Courts and Registries Branch provides for the management of legal libraries for the Department and coordinates library services for all professional Department staff including judges, Crown Counsel and correctional personnel.

## **FINANCE AND ADMINISTRATION BRANCH**

Under the Deputy Attorney General, this Branch is responsible for the development, direction, implementation and maintenance of the total financial, personnel, program evaluation and administrative activities within all branches of the Department. In addition, auditing and revenue services are provided, along with assistance to managers in the budgeting process.

### **FAMILY COURT ADMINISTRATION**

In Nova Scotia, Family Court administration is the responsibility of the Department of Community Services. The Department remunerates all Family Court judges and staff. Sheriff services are provided through the Department of the Attorney General.

Day to day administrative responsibilities for Family Court operations rest with regional administrators and district supervisors. In the larger court centres of Halifax and Sydney, court supervisors report to regional administrators. In addition to their Family Court administrative duties, regional administrators and district supervisors are responsible for administering the Department's other services such as Family and Children Services, Day Care Services, Homemakers Services and Rehabilitation Services.

Although it is primarily judicial in scope, the Family Court is concerned with the fundamental relationships of the family, in that it acts as a conciliator in family problems and as a protector of the rights of clients coming before the Court. The primary goal of the Court is to provide services



specializing in family law linked to related social and enforcement services.

The services provided through the Family Court are Judicial Services, Intake Services, Enforcement Services and Young Offender Services.

### **Judicial Services**

The Judicial component of the Family Court consists of Family Court judges who hear and dispose of matters before the Court pursuant to legislation within the jurisdiction of the Family Court.

### **Intake Services**

Intake Services determine and assess the nature of a problem and initiate appropriate action. In Halifax, Dartmouth and Sydney, these services are provided by Intake Services workers. In other areas of the province, Family Court officers are responsible for this service.

Short-term counselling is offered to clients of the Family Court at the Intake Services stage or on referral by judges of the Court through staff initiative or referral by other social agencies. Families and individuals requiring long-term counselling are referred to appropriate ancillary services in the community.

### **Enforcement**

The Enforcement component of the Family Court is responsible for the enforcement of orders made by judges for the payment of monies to spouses. A judge may order that maintenance be paid to the Court and when non-payment is encountered, the Court may notify the party in default by summons or warrant,

which would cause the party to be brought before the Court to explain the default. The judge has the power to garnishee wages, order larger amounts, excuse arrears, impose a jail term, or make other orders.

### **Young Offender Services**

Young Offender Services are provided to youths adjudged guilty of offences pursuant to the Young Offenders Act or Young Persons Summary Proceedings Act. These services include pre-disposition report writing, probation supervision, community service orders, supervising placement insuch facilities as foster homes and residential centres, working with youths in open or secure custody, and the provision of alternative measures as means for holding youths accountable for illegal behaviour.

The Family Courts receive central support services from other divisions of the Department of Community Services.

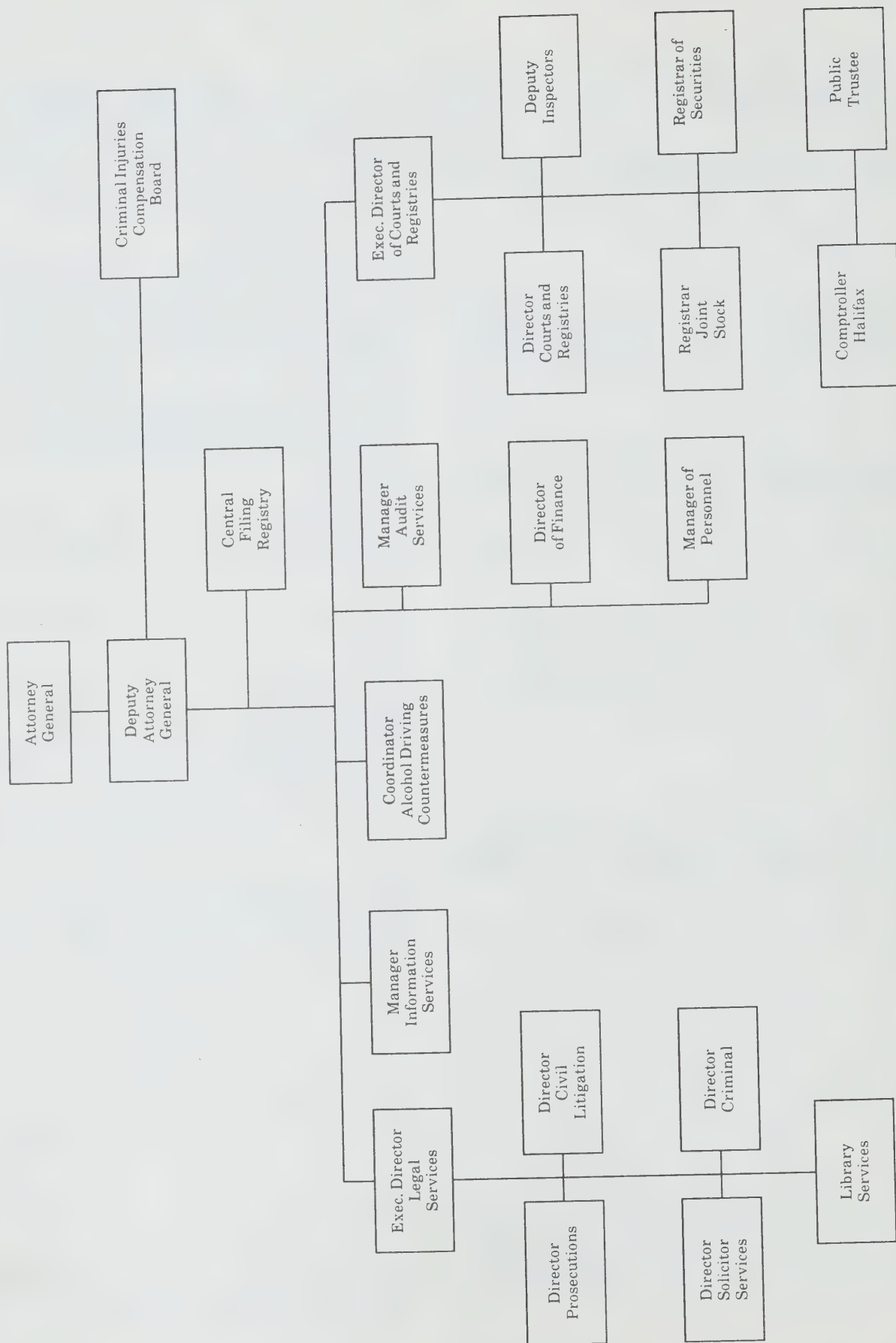
The Family and Children's Services Division is primarily responsible for the support service programs.

The Field Services and Personnel Division is responsible for the overall management of the regional and district offices and Family Court services throughout the province. The Division provides personnel services for the entire staff of the Department of Community Services. There is daily contact between this Division and the Family Court.

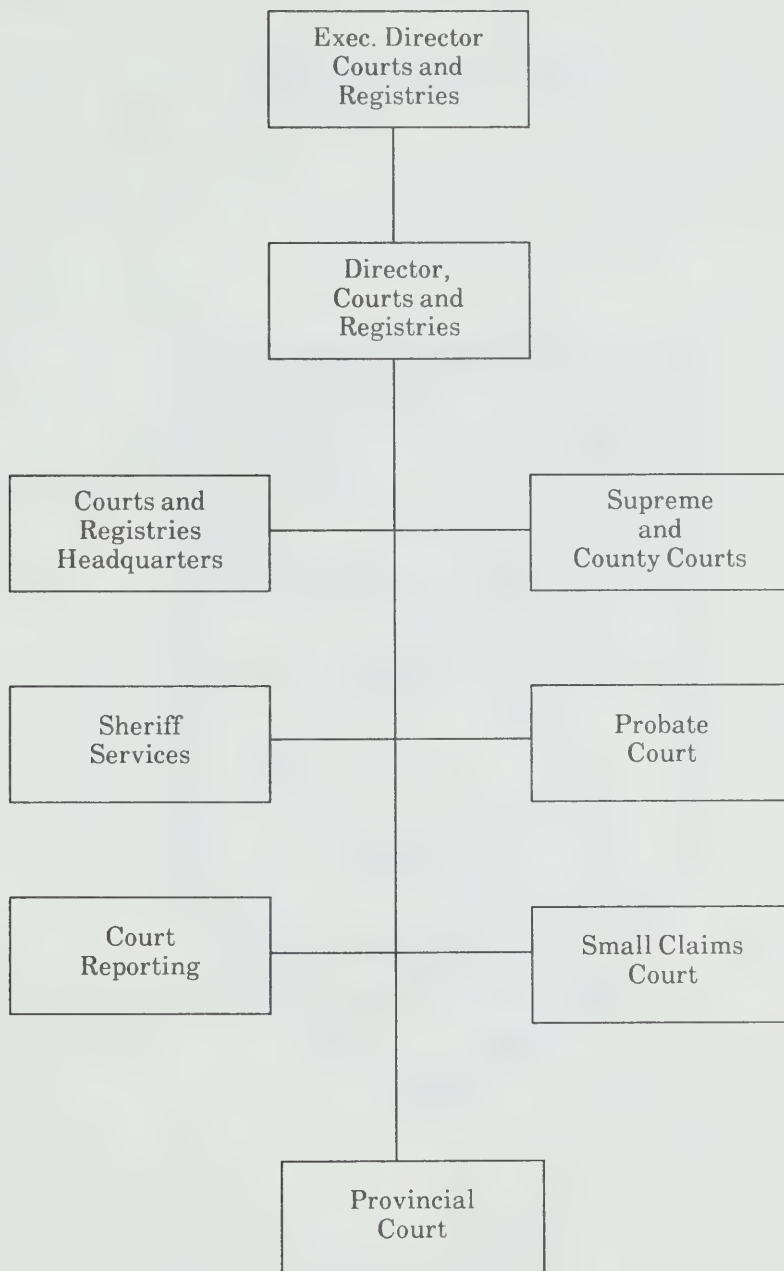
The Financial Services Division provides departmental budget preparation and control, and central administrative support services such as purchasing equipment, maintenance and inventory.



# DEPARTMENT OF THE ATTORNEY GENERAL, NOVA SCOTIA



## COURTS AND REGISTRIES, NOVA SCOTIA





# New Brunswick







## I. COURT OF APPEAL

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### A. Composition of the Court

This Court is established by the Judicature Act, R.S.N.B. 1973. The Court of Appeal consists of the Chief Justice of New Brunswick and five other justices who are appointed federally by the Governor in Council. In some circumstances, a judge of the Court of Queen's Bench can sit as a Court of Appeal judge.

Every appeal, motion, or application to the Court of Appeal shall, unless otherwise provided, be heard before not fewer than three justices sitting together.

### B. Geographic Distribution

The Court of Appeal sits permanently in Fredericton, but may sit elsewhere at the request of the Chief Justice of New Brunswick.

### C. Jurisdiction of Justices

Section 8 of the Judicature Act sets out the jurisdiction of the Court. It has appellate jurisdiction in civil and criminal matters, and with jurisdiction and power to hear and determine motions and appeals respecting any judgement, order or decision of any judge of the courts of New Brunswick.

An appeal to the Court of Appeal may be taken by any party from any judgement, order or decision:

- made in the Court of Queen's Bench or by a judge thereof;
- made by a judge of the Court of Queen's Bench who is persona designate by the provisions of an act that does not expressly deal with the matter of an appeal from that judgement, order or decision; or
- that is stated in any other act as being subject to an appeal to the Court of Appeal.

Where a party seeks to appeal from an interlocutory order or decision, an order or decision as to costs only, or an order made with the consent of the parties, leave to appeal must be obtained by motion to a judge of the Court of Appeal.

### D. Jurisdiction and Duties of the Registrar

The Registrar of the Court of Appeal is appointed by the Lieutenant Governor in Council, pursuant to S. 57 (1) of the Judicature Act. The Registrar is assisted by two deputy registrars.

The Registrar may transact all business and exercise all jurisdiction of the Court or judge of the Court, in respect of the following proceedings and matters:

- granting leave for service out of the jurisdiction of a writ or notice of a writ of summons, ordering substituted or other service or the substitution of notice for service and perfecting service of writs of summons, and enlargement of time for filing writs of summons; and
- judgement in default of appearance or pleadings in all actions, and in all proceedings arising therefrom, or in connection therewith.

Additionally, the Registrar is responsible for:

- signing and sealing all processes of the Court;
- drawing all orders, decrees and judgements;
- taxing all bills of costs where taxation is necessary;
- settling appeal books;
- issuing orders under various acts;
- executing conveyances, transfers or mortgages ordered by the Court;
- inquiring into the merits of an application to the Court;
- issuing subpoenas to debtors;
- settling orders;
- settling cause books;
- making declarations as to the state of title to land;
- granting leave to renew an originating notice or execution order;
- granting orders for interlocutory or final judgement;
- administering oaths;
- taking affidavits and statutory declarations; and
- receiving affirmations.

The Registrar also supervises the Director of the Trial Division and the Director of the Family Division. The Registrar is also appointed Registrar under the Bankruptcy Act.

## II. COURT OF QUEEN'S BENCH

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### A. Composition of the Court

This Court is established by the Judicature Act, R.S.N.B. 1973. The Court of Queen's Bench consists of the Chief Justice and 23 other judges who are appointed federally by the Governor in Council.

The Court is composed of two divisions: the Trial Division with 13 judges; and the Family Division with 10 judges. There are also four supernumerary judges.

## **B. Geographic Distribution**

New Brunswick is divided into eight judicial districts. An office of Clerk/Administrator of the Court is located in each judicial district. The Trial Division sits in two additional satellite locations and the Family Division sits in five additional satellite locations.

## **C. Jurisdiction of Judges**

Section 7(3) of the Judicature Act generally sets out the jurisdiction of the Court. The Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the province, except those matters or cases expressly excluded by statute. It also acts as a criminal appellate court.

### **Trial Division**

The Trial Division of the Court of Queen's Bench exercises general and original jurisdiction in all causes and matters, (except family related cases which are usually heard by the Family Division) including jurisdiction in the following matters:

- all causes and matters, civil and criminal, that were within the exclusive cognizance of the Supreme Court in the exercise of its original common law jurisdiction, before the commencement of the Judicature Act, 1909;
- all causes and matters that prior to July 1, 1966, were assigned to or cognizable by the Chancery Division;
- all causes and matters that prior to September 4, 1979 were within the jurisdiction of the County Court of New Brunswick; and
- all causes and matters that prior to September 4, 1979, were within the jurisdiction of the Queen's Bench Division of the Supreme Court.

The Trial Division also has responsibility for small claims matters with a monetary limit of \$1,000. These matters are generally heard by the clerk of the court, but can be heard by Trial Division judges under certain circumstances.

### **Family Division**

The jurisdiction of the Family Division of the Court of Queen's Bench is set out in Schedules A and B of the Judicature Act and includes the following:

- jactitation of marriage;
- judicial separation;
- rights to property in disputes among members of the same family, including dower, partition and sale, and settlements;
- restitution of conjugal rights;
- maintenance of a deceased person's dependents;
- alimony, maintenance and protection for spouses;
- maintenance of children;
- maintenance of parents;
- enforcement of alimony and maintenance orders;
- affiliation proceedings;
- custody of and access to children;
- adoption;
- declarations of status, including validity of marriage, legitimacy and legitimation;
- charges or proceedings under the Criminal Code of Canada with respect to incest and other sexual offences committed by a family member against another member of the same family, corrupting children, failing to provide necessities, abandoning children, abduction of children by members of the same family, assaults by a member of a family against another member of the same family, and thefts by a family member from another member of the same family;
- charges or proceedings against a person under eighteen years of age in respect of an offence under any provincial statute;
- charges or proceedings against a person in relation to an offence under a provincial statute against another member of his/her family;
- guardianship of the person and property of minors;
- consent to medical treatment of minors;
- actions in tort where the defendant, or any defendant, is a member of the same family as the plaintiff;
- the committal, custody or detention of any person, or the management of his/her property, for reasons of alcoholism, mental illness, mental incompetency or mental or physical infirmity;
- change of name; and
- presumption of death.

Although youth matters are heard in the Provincial Court, administrative services for these matters are the responsibility of the Court of Queen's Bench. The Registrar and deputy registrars are ex-officio clerk/administrators of the Court of each judicial district. The Directors of the Trial and Family Divisions are each ex-officio deputy registrars.



All appeals from the Court of Queen's Bench are to the Court of Appeal.

#### **D. Jurisdiction and Duties of the Registrar, Administrators, and Clerks**

The jurisdiction of the Registrar of the Court of Queen's Bench is the same as described for the Court of Appeal. The Registrar is assisted in these duties by two deputy registrars.

The Registrar of the Court of Queen's Bench is also responsible for matters involving the annulment of marriages. The Registrar executes this duty by virtue of the Court of Divorce and Matrimonial Causes, which remains an operational court falling under the jurisdiction of the Registrar of the Court of Queen's Bench.

Administration of local Queen's Bench registries is performed by clerks or administrators who are appointed by the Lieutenant Governor in Council pursuant to S. 68 of the Judicature Act and report to either the Director of the Trial Division or the Director of the Family Division. Clerks and administrators in New Brunswick have law backgrounds, and perform quasi-judicial functions similar to those of the Registrar. For example, clerks of the Trial Division of the Court of Queen's Bench may perform marriages.

### **III. PROBATE COURT**

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#### **A. Composition of the Court**

This Court is established by the Probate Court Act, S.N.B. 1982. It consists of Court of Queen's Bench judges who are all ex-officio judges of the Probate Court.

#### **B. Geographic Distribution**

The Court sits in nine permanent locations of which eight correspond to the locations of the Court of Queen's Bench.

#### **C. Jurisdiction of Judges**

Sections 2 and 3 of the Probate Court Act set out the jurisdiction of the Court. Generally, the Court has jurisdiction and power to take the probate of wills, to grant administration of the estates of deceased persons throughout the province, to recall or revoke grants, and to supervise the administration and distribution of estates. More specifically, the Court

has exclusive jurisdiction and authority in the following items:

- over all of the estate of a deceased person, whether or not a resident of the province at the date of death which estate is located in the province, and whether it consists of real or personal property or both;
- in respect of the grant, recall and revocation of letters probate of a will, letters of administration whether with or without a will annexed, and resealing as described in S. 73 of the Act; and
- subject to the concurrent jurisdiction of the Court of Queen's Bench, in the issuance of any orders or directions in connection with the administration, passing of accounts and execution of the estate of a deceased person as described above.

#### **D. Duties of the Registrar and Clerks**

Administration and case processing functions are provided by the Registrar and clerks of the Court of Queen's Bench, who are ex-officio officers of the Probate Court.

### **IV. PROVINCIAL COURT**

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#### **A. Composition of the Court**

This Court is established by the Provincial Court Act, R.S.N.B. 1973. Judges of the Provincial Court are appointed provincially by the Lieutenant Governor in Council.

The Provincial Court consists of the Chief Judge, an Associate Chief Judge and 20 other judges. The appointment and use of deputy Provincial Court judges was discontinued in January, 1988.

#### **B. Geographic Distribution**

There are 35 Provincial Court locations of which 14 have permanent Provincial Court registries.

#### **C. Jurisdiction of Judges**

##### **Adult Criminal Jurisdiction**

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.



## Youth Jurisdiction

Adjudication of youth matters is the responsibility of the Provincial Court. However, administrative services for these matters are provided by the Court of Queen's Bench, Family Division.

Appeals on summary matters are to the Court of Queen's Bench, Trial Division and in indictable matters to the Court of Appeal.

## V. COURT SERVICES

### Organization of Court Services

Three branches of the Department of Justice provide services to the Courts.

Court Administration provides staff who perform all local administrative, case processing and court reporting activities necessary to operate all of New Brunswick's courts.

The Administrative Services Division provides financial, human resources and general administrative services to the Department.

The Research and Planning Branch conducts research, strategic planning and evaluation for all branches of the Department including the Court Administration Branch.

In addition, the Sheriffs/Coroners Branch of the Department of Solicitor General provides a full range of sheriff functions including document service and court security.

The organization charts at the end of this chapter indicate where Department of Justice services are located within the overall structure of the Department itself, and within the Court Administration Branch.

### COURT ADMINISTRATION BRANCH

Under the Assistant Deputy Attorney General, the Executive Director of Courts is responsible for the administration of courts in New Brunswick.

#### Court Administration

Appeal Court administrative functions are performed by the Registrar with the aid of the Deputy Registrar of the Court of Appeal. Court of Queen's Bench administrative functions are performed by the Registrar, the Deputy Registrar of

the Court of Queen's Bench, the Director of the Trial Division, the Director of Family Division, and three Administrators (Family Division), three clerks (Trial Division) and five clerk/administrators (Family and Trial Division) in smaller locations.

Administrative duties in the Provincial Court are the responsibility of the Director of the Provincial Court.

The court registry activities performed include:

- receiving and processing legal documents;
- issuing notices, summonses, warrants for arrest;
- storing and retrieving court documents;
- trial scheduling and co-ordinating trial participants including witness management;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing and maintaining the integrity of court exhibits;
- monitoring the enforcement of court orders;
- completing forms and compiling data for statistical analyses;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;
- providing information to the general public and to lawyers on procedural requirements;
- making arrangements for circuit court sittings;
- providing information necessary for other related services to operate such as the monitoring of restitution and maintenance; and
- law library maintenance.

In the Fredericton, Saint John and Moncton Provincial Courts, a police sergeant performs court clerk functions. In rural areas served by the Provincial Court, and for family and civil matters heard in the Court of Queen's Bench, court clerk activities are performed by a court stenographer or a judge. A court clerk is provided for criminal matters in the Court of Queen's Bench.

#### Court Reporting and Recording Services

Court recorders who record proceedings are full-time staff in the Court Administration Branch and attend all court cases. Small claims proceedings are not recorded except upon request. Court stenographers are paid a salary for their services and do not usually receive fees for the preparation of transcripts.

The administrative responsibilities of the reporters and recorders include:

- maintaining recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto tape during proceedings;
- maintaining a written log of participants and events during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription and playback; and
- preparing invoices and billings.

In the Provincial Court, stenographers who provide court reporting services also participate in case processing, court clerk and other general office duties. Transcripts are prepared upon request.

#### **SHERIFF/CORONERS BRANCH (DEPARTMENT OF THE SOLICITOR GENERAL)**

The Sheriff/Coroners Branch is part of the newly established Department of the Solicitor General. General supervision of the Branch is the responsibility of the Chief Sheriff/Coroner located in Fredericton, who is assisted by a Deputy Chief. In addition, three district sheriff/coroners report directly to the Chief. They are responsible for all sheriff/coroner activities within designated geographic areas of the province and are located in Campbellton, Moncton and Saint John.

The authority for the appointment of the sheriffs and deputy sheriffs lies in the Civil Service Act and the Sheriffs Act. All sheriffs and deputy sheriffs are ex-officio coroners, although not all are utilized as coroners within the system. There are also a limited number of lay coroners (17) under the Coroners Act who act on a nominal fee-for-service basis in areas of the province not readily served by the ex-officio coroners.

The Sheriff/Coroners Branch performs a number of services related to civil case processing and court operations. They include:

- the service of civil documents
  - civil summonses and subpoenas, petitions, notices and other civil documents;
- court security (Court of Queen's Bench only)

- escort and protect judges while attending court;
- supervise and protect accused;
- protect the public attending court;
- separate and protect witnesses; and
- arrest on order of the judge (contempt);

- jury management

- summon, pay, provide comfort for juries;
- prepare attendance lists; and
- seclude and guard juries;

- escorts

- accused and convicted adults and young persons on remands, after first appearance in court, and after sentence to provincial or federal detention centres; and
- witnesses when ordered by court and when in custody;

- executions

- orders of seizure and sale and other orders of execution issued under the New Brunswick Rules of Court;
- orders for fieri facias (federal courts);
- warrants to arrest ships;
- sheriff sales;
- orders for interim recovery of personal property;
- seizures under the Repairers Lien Act and Woodworker Lien Act;
- arrests on civil warrants of committal; and
- evictions;

- prisoner holding

- supervise holding units in courthouses; and
- provide food for persons in custody while in holding unit awaiting court proceedings;

- mental patients

- escort to provincial psychiatric hospital; and

- all coroner's services

- cause investigations to be conducted; and
- conduct coroner's inquests.

Sheriffs provide court security at all criminal and family hearings in the Court of Queen's Bench and

may also act as court criers. Court security in civil matters in the Court of Queen's Bench is provided by sheriffs upon request.

#### **RESEARCH AND PLANNING BRANCH**

The Research and Planning Branch, under the Deputy Minister, undertakes specific research and evaluation projects and develops policy proposals. It assists in the strategic planning process and prepares all statistical reports and conducts statistical analyses.

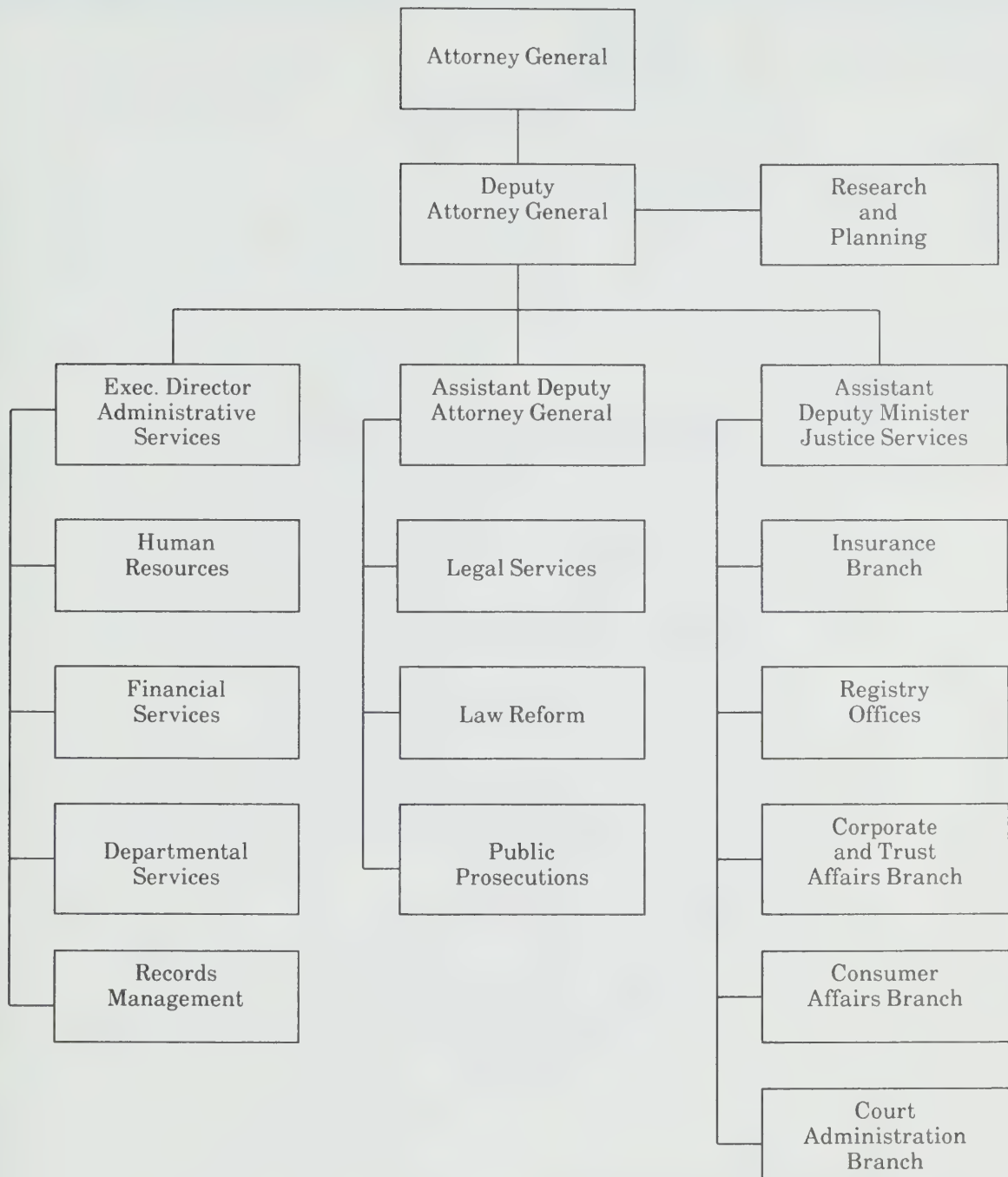
This Branch provides considerable research and planning services to the Court Administration

Branch as well as to other branches of the Department of Justice.

#### **ADMINISTRATIVE SERVICES DIVISION**

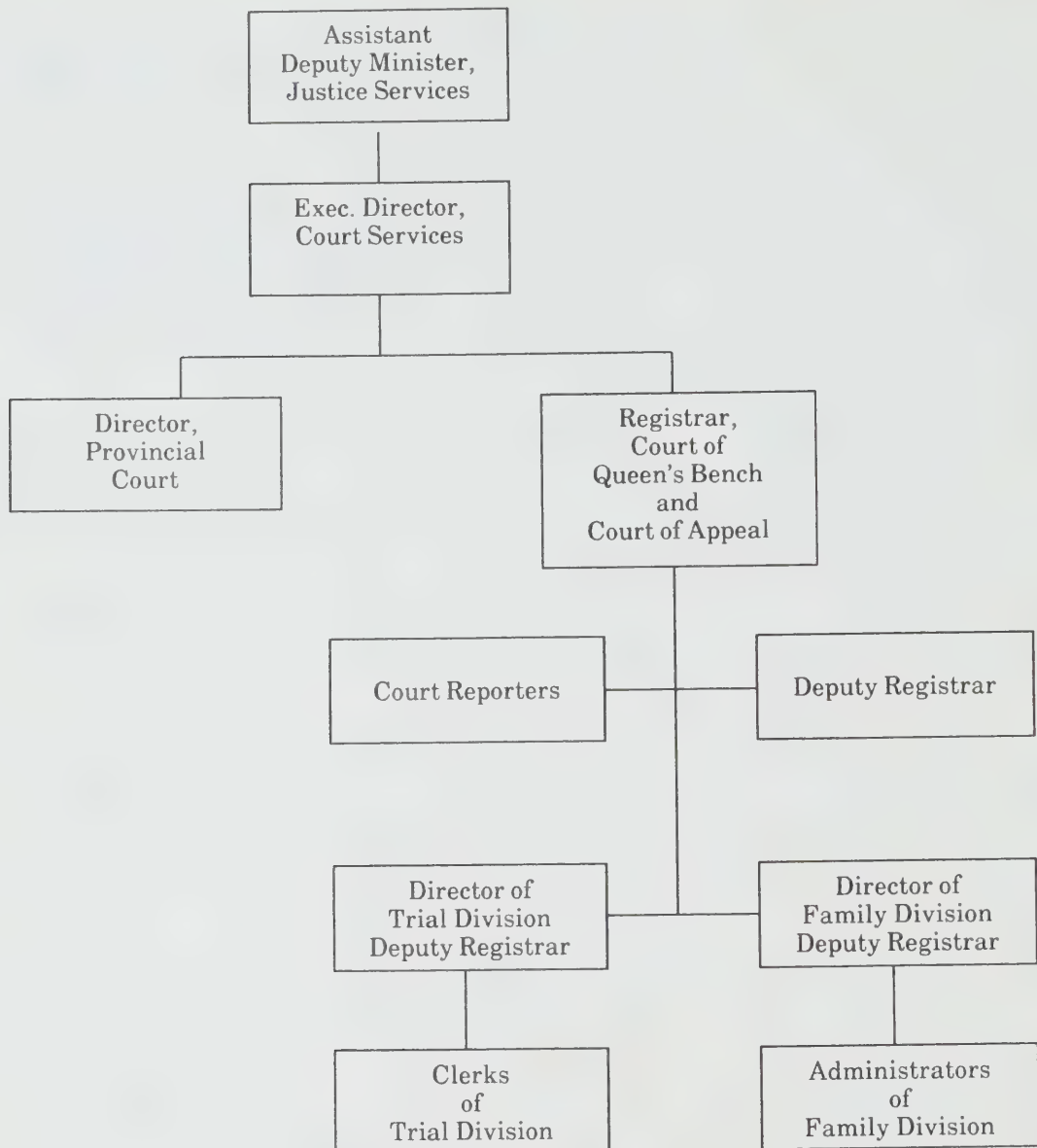
Under the Executive Director of Administrative Services, this Division provides administrative and support services to the three divisions of the Department of Justice. These services include all financial, human resources (including training and payroll), and general departmental services such as records management, supply acquisition, accommodations planning, and capital construction.

DEPARTMENT OF JUSTICE, NEW BRUNSWICK





# COURT ADMINISTRATION BRANCH, NEW BRUNSWICK



# Québec





## I. COURT OF APPEAL

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### A. Composition of the Court

The Court of Appeal is established by the Courts of Justice Act, R.S.Q. 1977. The Court consists of one Chief Justice and 15 puisne justices. These justices are governed by the Judges Act (Statutes of Canada) and are appointed federally by the Governor in Council. Additionally, there are four supernumerary justices.

### B. Geographic Distribution

The jurisdiction of the Court of Appeal extends throughout Quebec. Appeals from judgements rendered in certain western judicial districts of the province are heard in Montreal, while all others are heard in Quebec City. Five judges must reside at or near Quebec City and 11 judges must reside in the Montreal area. Generally, the judges preside over hearings in their own district, although the Chief Justice may vary this arrangement.

### C. Jurisdiction of Judges

The Court of Appeal is the general appeal tribunal for Quebec. It hears appeals on any judgement from which an appeal lies, failing an express provision to the contrary.

In civil matters, an appeal lies to the Court of Appeal from:

- any final judgement of the Superior Court or the Provincial Court, except in cases where the amount of the claim involved is less than \$10,000;
- any final judgement of the Provincial Court in cases where that court has exclusive jurisdiction under any act other than the Code of Civil Procedure;
- any other final judgement of the Superior Court or the Provincial Court, with leave of a judge of the Court of Appeal, when the dispute is one which ought to be submitted to the Court of Appeal;
- any final judgement rendered in matters of contempt of court for which there is no other recourse;
- any interlocutory judgement of the Superior Court, the Provincial Court, or, in adoption matters, the Youth Court, when such judgement decides an issue in part, or when it orders the doing of anything which cannot be remedied by the final judgement, or when it

needlessly delays proceedings (an interlocutory judgement rendered during a hearing cannot be appealed immediately unless it disallows an objection to evidence);

- any judgement or order rendered under Book VI of the Code of Civil Procedure (non-contentious matters); and
- any judgement or order rendered in adoption matters.

The Court of Appeal has jurisdiction to hear, on first appeal, any appeal resulting from a trial held before a court of criminal jurisdiction. Such appeal may be from a verdict made by a judge and jury or from a judgement rendered by a judge alone. It also hears with leave, on second appeal, decisions rendered by the Superior Court in summary conviction cases for offences contemplated in Part XXIV of the Criminal Code.

Appeals are heard by three judges, although, pursuant to S. 69 of the Courts of Justice Act, the Chief Justice may increase this number when required. The Court of Appeal also studies various constitutional questions put before it by the Government.

In civil matters, an appeal lies to the Supreme Court of Canada from any judgement rendered by the Quebec Court of Appeal when the Supreme Court is of the opinion that, by reason of its public importance or the importance of any issue of law and fact involved, one that ought to be decided by the Supreme Court.

In criminal matters involving indictable offences, a person whose conviction is affirmed by the Court of Appeal, or whose acquittal is set aside by the Court of Appeal, may further appeal to the Supreme Court on any question of law if:

- a judge of the Court of Appeal dissents; or
- leave to appeal is granted by the Supreme Court.

In criminal matters involving summary conviction cases, an appeal lies to the Supreme Court of Canada only in respect of a question of law or jurisdiction, and only with leave.

### D. Jurisdiction and Duties of the Clerk

The duties of the clerk are performed by the Clerk of Appeals. There is a Clerk of Appeals at both Montreal and Quebec and each is assisted in the performance of duties by deputy clerks.



The Rules of Practice of the Court of Appeal in civil matters state that the clerk shall not give up possession of a document in a file without a receipt from the attorney of one of the parties. The clerk furnishes copies, keeps up-to-date a register in which is entered for each case, detailed information as to the names of the parties, the date of appearance, the date of filing of documents, and so forth. The clerk also has the power to refuse any factum not in conformity with the law or the Rules of Practice. The clerk also taxes the memorandum of costs, prepares the roll for hearing and forwards copies of the roll to the attorneys at least thirty days before the beginning of the term. The Rules of the Quebec Court of Appeal in criminal matters are essentially the same as those of civil matters.

## **II. SUPERIOR COURT**

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### **A. Composition of the Court**

The Superior Court is a court of record. The Court consists of 132 judges, including a Chief Justice, a Senior Associate Chief Justice and an Associate Chief Justice, appointed federally. There are also 20 supernumerary judges.

### **B. Geographic Distribution**

In civil matters, the Superior Court sits in 49 permanent locations and goes on circuit to six others. In criminal matters, the Court sits in 40 permanent locations and one circuit location. The Chief Justice resides in either Montreal or Quebec.

When the Chief Justice resides in Quebec City, the Senior Associate Chief Justice performs the duties of the Chief Justice in the Montreal division and must reside at or near Montreal. When the Chief Justice resides in Montreal, the Senior Associate Chief Justice performs the duties of the Chief Justice in the Quebec City division and must reside at or near Quebec City. Each of the puisne judges is assigned to a specific judicial district but may sit in other districts when necessary.

### **C. Jurisdiction of Judges**

The Superior Court is the court of original general jurisdiction for Quebec. It holds supervisory powers over all lower courts in Quebec and hears in first instance every case not assigned exclusively to another court by a specific provision of law. It has both civil and criminal jurisdiction. The Superior Court holds all of the powers of a court as outlined in S. 96 of the Constitution Act, 1987. Judges of the

Superior Court are also justices of the peace and coroners throughout Quebec.

### **Civil Jurisdiction**

In civil matters, the Superior Court generally hears cases in which the value of the claim exceeds \$15,000. It also has jurisdiction in non-contentious matters such as rectification of the vital statistics registers, probate, and matters falling under the Divorce Act or the Bankruptcy Act (federal statutes).

### **Criminal Jurisdiction**

In criminal matters, the Court sits both as a court of first instance and as an appeal court. It hears appeals allowed under Part XXIV of the Criminal Code. When sitting as a criminal court of first instance, the Superior Court is required, pursuant to S. 74 of the Courts of Justice Act, to hold at least three terms per year in each district.

### **D. Duties of the Prothonotary**

Prothonotaries are officers of the Superior Court generally and in criminal matters, are known as clerks of the Crown. The duties of the prothonotary include preparing the rolls, issuing summonses, rendering default judgements in certain matters, and keeping the records and books of account. In certain non-contentious matters, special prothonotaries may be granted additional powers. The prothonotary is assisted by deputy prothonotaries who may hold part or all of the powers conferred on the prothonotary.

Other officers of the Superior Court include the sheriff and the registrar of bankruptcy. In Quebec, the sheriff is responsible in criminal matters for drawing up the jury panel. In civil matters, the sheriff is empowered to execute seizures of real property. The powers of the registrar of bankruptcy as conferred by S. 162 of the Bankruptcy Act include hearing ex parte applications and requests for debtor discharge.

### **E. Jurisdiction of the Judge in Chambers and the Prothonotary**

The powers of the judge in chambers and the prothonotary are set out in articles 38 to 45 of the Code of Civil Procedure and in the various rules of practice adopted by the courts.

The judge in chambers may refer to the court any matter submitted to him or her if it is considered that the interests of justice so require.

The prothonotary has the powers of a judge in chambers:

- in cases where expressly provided by law; or
- when the judge is absent or unable to act and delay might result in the loss of a right or cause serious harm.

In the latter case, a decision of the prothonotary may be revised by the judge or the Court upon a demand filed within ten days of the decision. The prothonotary may also sign the minutes of any judgement rendered upon a motion granted by consent.

Actions in recovery of funds may be inscribed for judgement by the prothonotary, provided they are based on:

- authentic documents or private agreements;
- a verbal agreement for the payment of a specific sum; or
- a detailed account of services rendered or merchandise sold and delivered.

The deputy prothonotary may exercise the powers conferred concurrently on the prothonotary and the judge if chosen for that purpose by the prothonotary with the consent of the Minister of Justice or his/her appointee. For acts which do not require the exercise of judicial or discretionary power, the prothonotary may designate members of staff to act on his/her behalf.

### III. PROVINCIAL COURT

#### A. Composition of the Court

The Provincial Court consists of 158 judges appointed provincially under S. 125 of the Courts of Justice Act. These judges include a Chief Judge, a Senior Associate Chief Judge, an Associate Chief Judge and 155 puisne judges.

#### B. Geographic Distribution

The Chief Judge may reside in either Montreal or Quebec City, with an Associate Chief Judge residing in the other location. Both judges co-ordinate and apportion the work of the puisne judges.

#### C. Jurisdiction of Judges

The Provincial Court exercises a mixed jurisdiction over certain criminal and civil matters. The Code of

Civil Procedure assigns exclusive jurisdiction to the Provincial Court in the following matters:

- claims for less than \$15,000, except alimony suits and those reserved for the Federal Court of Canada;
- execution or rescission of contracts when the plaintiff's interest in the object of the dispute is less than \$15,000;
- annulment of commercial leases when the amount claimed for rent and damages is less than \$15,000 (residential leases are the exclusive jurisdiction of the Rental Board);
- recovery of a tax or other sum of money due to a municipal or school corporation under the Municipal Code or any general or special law or by-law made thereunder, as well as questions regarding the holding or exercise of an office in such corporations;
- voluntary payments to creditors (except in bankruptcy cases);
- exempting fixed assets which otherwise would normally be taxable for municipal or school purposes, regardless of the laws governing the municipal or school corporation concerned; and
- all actions under the Code concerning certain extraordinary recourses and relating to the usurpation, holding or unlawful exercise of an office in a municipality or school corporation, regardless of the law governing the municipality or school corporation.

#### Small Claims

The Small Claims Division of the Provincial Court was established under the Act to Promote Access to Justice, 1971. Hearings in this Court are usually presided over by a judge of the Provincial Court. There are 59 permanent Small Claims locations throughout Quebec with 23 locations served on circuit.

The jurisdiction of the Small Claims Division is set out in the Code of Civil Procedure and includes claims:

- not exceeding \$1,000 (art. 953);
- having as cause a contract, quasi-contract, offence or quasi-offence;
- against a debtor residing in Quebec or having a place of business in Quebec; or
- against any private citizen in his/her own name and on his/her own behalf or by a tutor or curator in his/her official capacity.

The same applies to any motion for the dissolution, rescission or cancellation of a contract where the value of the contract and, as the case may be, the amount claimed do not exceed \$1,000.



Decisions of the Small Claims Division are final and without appeal.

The Small Claims Division cannot hear alimony cases libel or slander suits, rent cases or any other matters which may affect the future rights of the parties. It also cannot hear actions brought by purchasers of debt or small claims that are the subject of a class action suit.

In criminal and penal matters, judges of the Provincial Court have the same powers as judges of the Court of the Sessions of the Peace. Provincial Court judges can hear certain criminal and penal matters in judicial districts not served by the Court of the Sessions of the Peace. For example, they can preside over summary conviction cases and over hearings for all but the most serious indictable offences. They also have jurisdiction in federal penal matters generally involving traffic violations and impaired driving charges. The Provincial Court is, however, primarily a court of civil jurisdiction dealing with matters under the exclusive control of the provincial government (S. 157 of the Courts of Justice Act). Provisions of the Courts of Justice Act relating to the criminal jurisdiction of the Provincial Court must be viewed as supplementary to any similar provisions enacted by the Parliament of Canada as regards matters within its exclusive control.

A judge of the Provincial Court may also act as member of the Labour Court or as Director General of Elections. In addition, the judge may perform other quasi-judicial duties for the government as set out in S. 82 of the Courts of Justice Act. These duties are further described in the section in this chapter entitled Court of the Sessions of the Peace.

#### **D. Jurisdiction and Duties of the Clerk**

The clerk of the Provincial Court is appointed by order of the Quebec Minister of Justice (S. 147 of the Courts of Justice Act). The clerk must keep the records of the Court and the minutes of all proceedings as well as the books of account. The clerk may also render default judgements on matters within the jurisdiction of the Court. In addition, the clerk is in charge of the distribution centre of his/her district (voluntary payments). Distribution centres are responsible for the collection and payment of monies arising from fines, seizures, voluntary deposits, alimony, and so forth. They will be further discussed in detail in the section entitled Court Services.

## **IV. COURT OF THE SESSIONS OF THE PEACE**

### **A. Composition of the Court**

The Court of the Sessions of the Peace is a court of record. It is composed of not more than 74 provincially appointed judges, including a Chief Judge, a Senior Associate Chief Judge and an Associate Chief Judge.

### **B. Geographic Distribution**

The Court sits in 51 locations of which 13 are served on circuit.

### **C. Jurisdiction of Judges**

The Court of the Sessions of the Peace is a court of first instance which hears criminal matters only. Offences referred to in S. 483 of the Criminal Code (e.g. thefts of less than \$1,000) are under the exclusive jurisdiction of this Court. It has concurrent jurisdiction in certain cases with the Superior Court. Criminal acts not the exclusive domain of the Superior Court may be heard either by a judge alone in the Court of the Sessions of the Peace or by a judge and jury in Superior Court. This is the only choice open to an accused. However, an accused may subsequently re-elect pursuant to Criminal Code rules of procedure. For example, with approval of the Crown, an accused who initially elects trial by judge and jury may, after the preliminary inquiry but before the criminal trial begins in Superior Court, re-elect to be tried by judge alone in the Court of the Sessions of the Peace. The Court of the Sessions of the Peace may hear, as well, certain breaches of federal and provincial laws.

Sessions Court judges may also hold quasi-judicial positions pursuant to S. 82 of the Courts of Justice Act. A judge may act as president or vice-president of a commission, board, bureau or committee instituted under a Quebec law, or serve as a member of the Public Security Commission of the Montreal Urban Community or as a member of the Quebec Police Commission. A Sessions Court judge may in addition act as an arbitrator or carry out any mandate entrusted to him or her by the Governor in Council.

Under S. 186 of the Courts of Justice Act, the Minister of Justice may, by special commission, appoint justices of the peace with jurisdiction over all of Quebec or over those specific districts named by the commission. Any justice of the peace appointed

pursuant to this section is primarily an officer of Court Services. Justices of the peace are appointed from among the most qualified persons residing in their district and their appointments may be revoked at any time. Lawyers may be appointed as justices of the peace but may not continue to practise law at the same time.

The jurisdiction of any justice of the peace is limited by the policy established in accordance with S. 186 (this does not include those justices of the peace appointed to Municipal Courts or to courts in remote areas such as James Bay and Basse Côte Nord). This policy establishes four categories of powers as well as eligibility criteria. The jurisdiction of a justice of the peace depends on the powers vested in him or her upon appointment. The powers include issuing summonses and warrants of committal, issuing arrest and search warrants, and rendering judgements in default or upon a plea of guilty for a violation of the Highway Code.

Certain justices of the peace in Montreal hold wider powers. They may hear provincial penal matters falling under the Summary Convictions Act as well as cases under Part XXIV of the Criminal Code, including federal offences subject to prosecution as set out in this Part.

#### **D. Jurisdiction and Duties of the Clerk**

The clerk of the Court of the Sessions of the Peace is known as the Clerk of the Peace and of the Crown. The clerk keeps the records of the Court and enters all proceedings. The clerk also keeps the books of account and makes a report of all proceedings of the Court, of the state of the accounts and of all information received in the performance of the duties of office whenever required to do so.

### **V. YOUTH COURT**

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#### **A. Composition of the Court**

This Court is established by the Courts of Justice Act. It is composed of a Chief Judge, an Associate Chief Judge and 45 provincially appointed judges.

#### **B. Geographic Distribution**

The Youth Court sits in 50 locations of which nine are served on circuit.

#### **C. Jurisdiction of Judges**

The jurisdiction of the Youth Court is set out in numerous laws including the Youth Protection Act,

the Civil Code of Quebec, the Code of Civil Procedure, the Mental Patients Protection Act and the Young Offenders Act. This Court has exclusive jurisdiction in cases where a Quebec law or regulation is breached by a youth of less than 18 years of age. Under the Code of Civil Procedure, the Youth Court also has exclusive jurisdiction in adoption matters.

#### **D. Jurisdiction and Duties of the Clerk**

The clerk of the Youth Court is appointed by order of the Minister of Justice pursuant to S. 118 of the Courts of Justice Act. The clerk drafts the minutes of Court proceedings, keeps the records, and may, when there is no judge present or able to act, perform any official act or procedure with the exception of rendering judgement or passing sentence. The deputy-clerk of the Youth Court has the same powers and performs the same duties as the clerk.

### **VI. MUNICIPAL COURTS**

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#### **A. Composition of the Court**

Municipal councils may establish their own Municipal Court by passing a by-law which must be approved by the Minister of Justice and the Minister of Municipal Affairs. The jurisdiction of the Municipal Court is confined to the geographic boundaries of the municipality it serves. The Municipal Court is governed by three statutes:

- the Cities and Towns Act, R.S.Q., 1977;
- the Municipal Courts Act, R.S.Q., 1977; and
- the Courts of Justice Act R.S.Q., 1977.

There are 14 full-time judges in Montreal, two in Quebec City and three in Laval.

Municipal Court employees are hired by the municipality.

#### **B. Geographic Distribution**

Municipal Courts sit in almost all cities and towns in Quebec (137 locations). The largest and most permanent institutions are those in Montreal, Quebec City and Laval. While most Municipal Courts sit only one half-day a week or every two weeks, those in the three largest centres sit more frequently. In Montreal, the Court generally sits every day.

#### **C. Jurisdiction of Judges**

In civil matters, municipal judges hear actions primarily for the recovery of taxes or license fees



owed to municipalities. In penal matters, their jurisdiction extends to breaches of municipal by-laws and of certain provincial laws such as the Highway Code. In criminal matters, municipal judges are *ex officio* justices of the peace. As soon as the council of a municipality has established a Municipal Court, no judge of the Provincial Court or justice of the peace may give consideration to infringements of the Cities and Towns Act, the charter, or any by-laws of the council (S. 653 of the Cities and Towns Act).

The territorial jurisdiction of municipal judges is generally limited to the municipality in which they sit. The Municipal Courts Act does provide, however, that the council of any municipality may adopt a by-law to submit its territory to the jurisdiction of the Municipal Court of another municipality within a radius of ten miles. The province may withhold its approval for such a by-law.

An appeal lies to the Court of Appeal from the final decision of any Municipal Court case where the amount in dispute exceeds \$500 or where the action relates to the interpretation of a contract which has a value of at least \$500 to which the municipality is a party.

Whenever the judgement of a municipal judge or Municipal Court affects future rights, a defendant may ask that the case be evoked to the Superior Court of the same district.

The Municipal Courts of Montreal, Quebec City and Laval are governed by special statutes. While the judges of other Municipal Courts generally sit part time, these three courts have permanent judges with more extensive powers in penal and criminal matters. Their jurisdiction is similar to that of Sessions Court judges.

The large size of the Municipal Court of Montreal (13 judges and 24 prosecutors) makes it unique among courts of its type. It is empowered under article 1118 of the Charter of the City of Montreal to hear and try summarily:

- any action brought by the city for the recovery of taxes or dues owing to it; and
- any action for city by-law enforcement or licence suspension or cancellation.

The Court may also order an accused whom it considers to be mentally unfit to be held for a period of not more than eight days for a medical examination.

The rules set out in the Courts of Justice Act with respect to judicial ethics, dismissal of judges and incompatible functions apply to municipal judges.

#### **D. Jurisdiction and Duties of the Clerk**

The Municipal Courts Act, R.S.Q., 1977 and the Cities and Towns Act provide that in every city or town in which there is a Municipal Court, the clerk of the Court shall, unless otherwise provided by law, be appointed by resolution of the municipal council responsible for the maintenance of the Court.

Article 1111 of the Charter of the City of Montreal states that the clerk shall have custody of the seal of the Court, a provision also found in the Cities and Towns Act. The clerk also prepares and makes all writs, warrants or orders issued by the Court or by the Municipal Court judge. The clerk conducts all cases and suits cognizable by the Court or the Municipal Court judge, except in cases where the municipality or parties to the suit wish to be represented by an attorney of their choice.

### **VII. ADMINISTRATIVE TRIBUNALS**

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The Labour Court has permanent offices in Montreal and Quebec City. The Court, however, will travel on circuit as actions must be heard in those areas in which they arise, unless otherwise decided by the Chief Justice.

The Department of Justice, through the Court Services Division, provides basic services to the Labour Court. These services include file maintenance, issuance of notices of appearance, recording and transcription of proceedings, and provision of support and staff.

### **VIII. COURT SERVICES**

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#### **Organization of Court Services**

Three divisions of the Department of Justice provide services to the courts.

The Court Services Division provides administrative, professional and legal services to all courts in Quebec except the Municipal Courts. These services are supplied by a central office and by regional and local offices.

The Personnel Division provides services in research analysis, labour relations, human resources development, and professional and technical services.

The Administration and Registry Division provides physical resources such as computer equipment, administrative analysis and budgetary services. This Division is also responsible for internal audits and the co-ordination of departmental activities pertaining to native people.

As of April 1, 1987, Administration (formerly of Administration and Registry Division) and Personnel Division were amalgamated. The Registry section has been integrated into the new Registry Division.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department of Justice and the Court Services Division.

## **COURT SERVICES DIVISION**

The Associate Deputy Minister is responsible for the administration of the Court Services Division including the planning, co-ordination and improvement of services to all courts except the Municipal Courts. The Associate Deputy Minister is assisted by the directors of Administrative Services and Professional Services.

### **Administrative Services Branch**

The Administrative Services Branch consists of five service units: Physical and Financial Resources, Information Systems, Audio and Electronic Recording, Organizational Performance Studies and Vital Statistics Registry. This Branch controls the Division's staff and co-ordinates management of its physical and financial resources. In addition, it is responsible for computerization of court activities, development of management information systems, courthouse development projects, work standardization and reorganization studies, and technical support for audio recording of proceedings, audio security systems and witness-calling systems. It is also responsible for the vital statistics register and provides advice on all administrative matters.

#### **Physical and Financial Resources**

This unit is responsible for co-ordinating program reviews, supervising budgets through frequent analysis, and designing, implementing, standardizing and managing accounting systems. Further, it manages all forms used by Court Services staff, develops administrative policies for control and management of physical resources, and advises

regional offices on equipment and supply purchases while co-ordinating their activities in this regard. With respect to human resources, it controls staff envelopes and co-ordinates measures and programs with financial impacts in accordance with the Department's central programs.

#### **Information Systems**

The Information Systems unit is responsible for managing the Division's information systems, conducting research and studies on management indicators and, in general, providing statistical information requested by the Department's various divisions, judges, courts administration personnel and outside organizations. To this end, the unit identifies, monitors and collects data useful for statistical analysis of courts administration in Quebec. Further, it also plans and develops new systems, provides clientele support for systems in operation and co-ordinates and installs office automation equipment within the Division.

#### **Audio and Electronic Recording**

The mandate of the Audio and Electronic Recording Service is to provide technical support for the court recording and transcription systems now found in most Quebec courthouses. Its services include installation, maintenance, replacement and technical adjustment of the various recording devices used. The unit is also responsible for the purchase and maintenance of witness-calling systems and video security systems.

#### **Organizational Performance Studies**

This unit has the responsibility of carrying out studies on standardization and reorganization of work in all sections of the Court Services Division. These studies are used to create a model for inter-regional staff allocation. This unit also prepares various courthouse construction and renovation programs. For the planning of new legislation, it carries out impact studies with respect to resources, procedures and organization. Finally, the unit advises the Associate Deputy Minister and all Division managers on development of work experience.

#### **Vital Statistics Registry**

The main purpose of this registry is to provide prothonotaries with a supplementary index when vital statistics certificates are issued.



## Professional Services Branch

The Professional Services Branch encompasses four units: Legal Affairs, Human Resources Management, Professional Relations, and Provincial Small Claims Settlement. Also provided by the Branch is the co-ordination of institutional development and reform. The Branch is responsible for the organization of professional services and related operations and is in charge of planning, co-ordinating and developing the judicial and professional activities of the Court Services network in Quebec. It also sets guidelines, defines policies and standardizes administrative procedures with legal, judicial or professional consequences.

### Legal Affairs

The principal mandate of the Legal Affairs unit is to respond to requests of a legal nature made by the Associate Deputy Minister and clientele of the Quebec Court Services network. Its role is to provide legal advice, to provide the services of courtroom lawyers and to serve as a special contact for the various persons involved in the court system. It also prepares legal opinions, studies planned legislation to predict its impact on Court Services operations, suggests amendments to acts and regulations with a view to consistency, sees to the implementation of new legislation and carries out research in various fields of law relating to the administration of justice.

### Human Resources Management

The primary role of this unit is to respond to requests from the Associate Deputy Minister and clientele of the Quebec Court Services network regarding human resources management, organizational development and implementation of certain government or department policies. It also takes any actions required with respect to assignments, transfers, promotions, hiring and other staff moves. Because of this activity, it works directly with the Organizational Performance Studies team by advising Court Services managers on organizational analysis and development of administrative organizational plans.

### Professional Relations

The main role of the Professional Relations unit is to respond to requests of the Associate Deputy Minister and clientele of the Quebec Court Services network concerning the Division's tasks with respect to socio-economic and family assistance, its relations with the public and with key figures in the court system, and the co-ordination of activities of justice

officials in the exercise of their judicial powers. In addition, it receives, analyzes and prepares, at the request of departmental management, responses and recommendations in connection with public complaints.

### Provincial Small Claims Settlement

Provincial Small Claims Settlement presently serves the judicial districts of Montreal and Quebec City. The service may gradually be extended to other regions of Quebec.

### Regional Offices

Regional offices carry out the Division's mandate in each region. They co-ordinate judicial and administrative activities within their jurisdiction and see to the implementation of new laws and directives at the regional level. The Court Services Division has eleven regional offices, with each region comprising several judicial districts.

### District Offices

Court Services is sub-divided into 36 judicial districts. Each district office is responsible for services to the courts within its district and for the sub-offices situated elsewhere in the district. Each sub-office is run by a local administrator who reports to the district office. Activities of the district offices include judiciary support services, trial and registry services.

### Judiciary Support Services

Judiciary Support Services provide judges with the resources necessary for the performance of their duties.

A human resources program places at the disposal of judges the services of secretaries, legal assistants and researchers.

Judges' secretaries assist judges in the performance of their duties by attending to correspondence and by performing several administrative tasks. Legal assistants prepare judgements in specific cases such as the failure of a defendant to plead or to appear.

Researchers are under the direction of the judge or the judge's deputy. They prepare briefs on facts and law pertinent to cases before the judge, analyze the positions of the parties, summarize the state of the law on questions raised at hearings, give opinions when requested on the merit of cases heard or about

to be heard and, before judgement, do all necessary jurisprudential research.

### **Trial Services**

Trial Services provides all of the human, financial and physical resources necessary for the smooth functioning of hearings and trials.

Court clerks ensure that all files submitted for hearing are complete and in conformity with the requirements of pertinent legislation. They assist the judge during the hearing, enter in the record all proceedings filed before the court, note attendance and type of custody, read the charge, administer the oath to witnesses and tax them, number and draw up an inventory of exhibits before the hearing, prepare the court transcripts, advise the master of the roles of the next step in the proceedings to avoid delays, facilitate the planning of the roles and ensure that witnesses, if any, will appear as required, and operate the electronic recording equipment.

Bailiffs keep order in the courtroom, precede the judge upon entrance and call witnesses.

When a proceeding is not being electronically recorded, court reporters are responsible for verbatim court reporting by means of stenograph, stenotype or stenomask. They report testimony given before the courts or commissions of inquiry, depositions of witnesses, objections raised, decisions rendered by the judge, pleadings and testimony given at a coroner's inquest. They may be requested to dictate their notes to another person or to record them with mechanical aids.

The sheriff is responsible for the seizure of real property. In certain criminal matters, the sheriff is charged with assembling jurors and drawing up the jury panel. Finally, sheriffs ensure the security of ballot boxes in all elections held in Quebec.

## **PERSONNEL DIVISION**

The Personnel Division is responsible for advising and assisting departmental managers in human resources management. It also provides employees with assistance and information regarding personnel management directives and procedures. Furthermore, it ensures that personnel management regulations and directives are complied with and exercises the decision-making powers delegated to it. The Personnel Division conducts studies, evaluates personnel management methods, and makes recommendations to central agencies in order to achieve more effective human resources management.

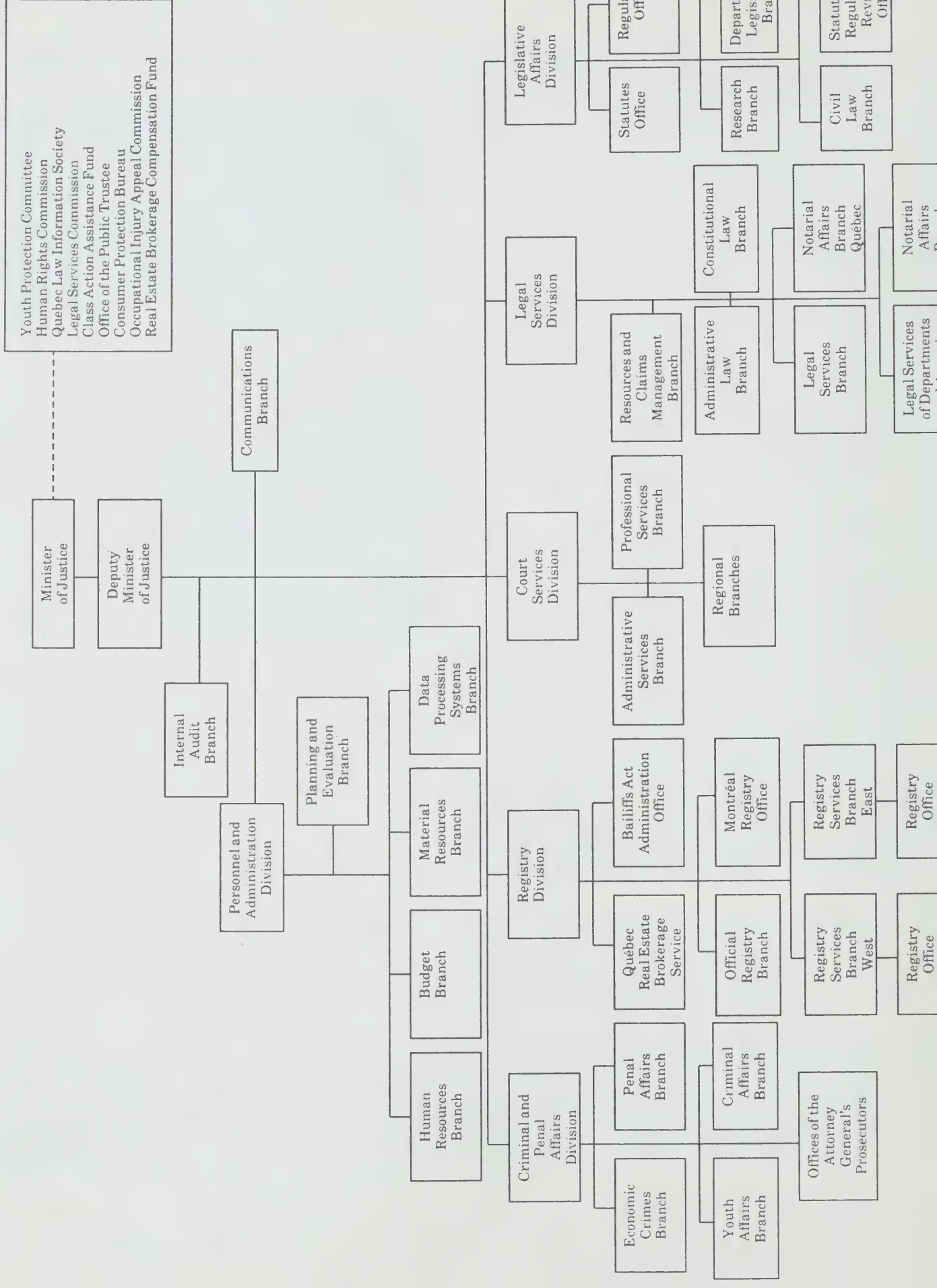
## **ADMINISTRATION AND REGISTRY DIVISION**

The Administration Division is involved in physical and financial management, analysis, organization, and information systems. Within this framework, it provides the administrative units with on-the-spot expertise, offers deputy ministers and executive committees decision-making support with regard to questions affecting the Department, performs duties applicable to the entire Department so as to achieve essential economies of scale and standardization through concentration of operations, and represents the Department in dealings with central agencies.

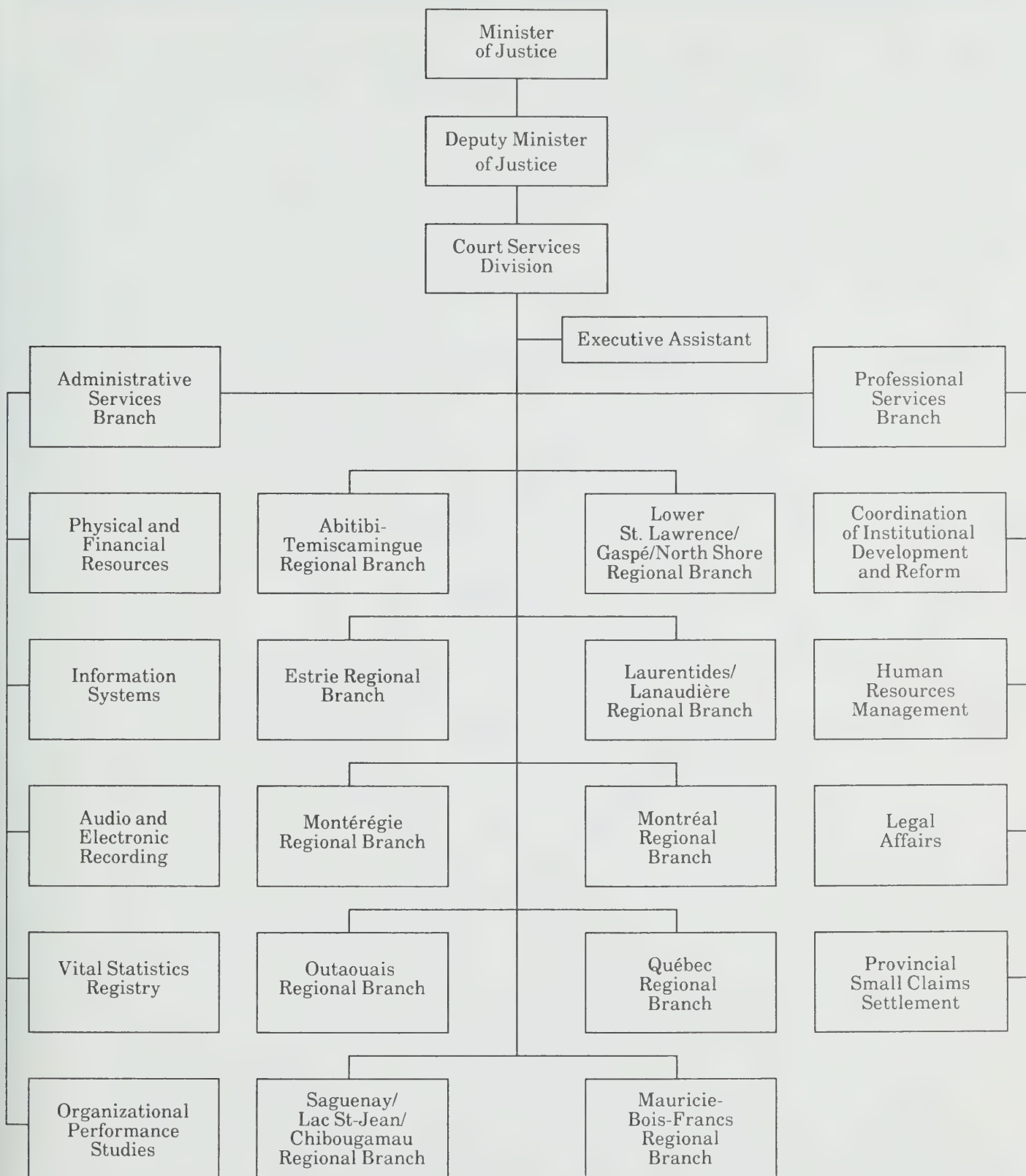
As of April 1, 1987, Administration (formerly of Administration and Registry Division) and Personnel Division were amalgamated. The Registry section has been integrated into the new Registry Division.



# DEPARTMENT OF JUSTICE, QUEBEC



# COURT SERVICES DIVISION, QUEBEC





# Ontario







## **I. SUPREME COURT: COURT OF APPEAL**

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### **A. Composition of the Court**

This Court is established by the Courts of Justice Act, S.O. 1984. The Court of Appeal consists of the Chief Justice of Ontario, the Associate Chief Justice and 14 other justices who are appointed federally by the Governor in Council. There are three supernumerary justices for the Court of Appeal.

The Court generally sits with a quorum of three justices, and on occasion with five. It may sit with one or more divisions of three justices.

### **B. Geographic Distribution**

The Court of Appeal sits on a regular basis in Toronto and hears inmate appeals in Kingston once a month.

### **C. Jurisdiction of Justices**

The Court of Appeal is a superior court of record with appellate jurisdiction in both civil and criminal matters.

An appeal lies to the Court of Appeal from:

- an order of the Divisional Court, on a question that is not a question of fact alone;
- a final order of a judge of the High Court, except an order of a High Court judge where the payment of money is less than \$25,000 pursuant to the Divorce Act; and
- a final order of a local judge of the High Court, except where the order could have been made by a master.

### **D. Jurisdiction and Duties of the Registrar**

The Registrar of the Court of Appeal has similar duties to those described for the Registrar of the High Court of Justice.

## **II. SUPREME COURT: HIGH COURT OF JUSTICE**

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### **A. Composition of the Court**

This Court is established by the Courts of Justice Act, S.O. 1984. The Court consists of the Chief Justice of the High Court, the Associate Chief Justice of the High Court and 46 other judges appointed federally by the Governor in Council.

There are nine supernumerary judges for the High Court.

### **B. Geographic Distribution**

The High Court of Justice sits continuously in Toronto, and on circuit at least twice a year in every county or district in the province. This represents 48 circuit court locations, all with permanent Supreme Court registries.

### **C. Jurisdiction of Judges**

#### **Civil Jurisdiction**

The High Court has jurisdiction in all civil matters not excluded by statute. Civil jurisdiction is unlimited as to the monetary amount involved, but cases generally deal with financial disputes over \$25,000.

Appeals on civil cases heard by the High Court are to the Divisional Court in divorce matters, and to the Court of Appeal in all other matters.

#### **Criminal Jurisdiction**

The High Court has jurisdiction over all indictable offences, and exclusive jurisdiction for indictable offences under S. 427 of the Criminal Code. These include treason, murder, mutiny and corrupting justice. All of these offences require a trial by judge and jury.

Appeals on criminal cases heard by the High Court are to the Court of Appeal.

### **D. Jurisdiction of Local Judges**

Every District Court judge may be appointed as a local judge of the High Court. Subject to the Rules of Civil Procedure, every local judge has all the jurisdiction of a judge of the High Court to hear and determine actions under the Divorce Act (Canada) and, where a claim for other relief is joined in a petition for divorce, a local judge has the same jurisdiction to hear and determine the claim as a judge of the High Court. Every local judge has the jurisdiction conferred by the Rules of Civil Procedure.

### **E. Jurisdiction and Duties of Masters and Registrars**

In Ontario, both masters and registrars are appointed by the Lieutenant Governor in Council.

Masters are judicial officers and under the Rules of Civil Procedure can hear any motion in a proceeding in the Supreme Court. Masters have all the jurisdiction of a High Court judge in respect of a motion, except:

- a motion where the power to grant the relief sought is conferred expressly on a High Court judge;
- a motion to set aside, vary or amend an order of a High Court judge or local judge;
- a motion relating to the security of the subject;
- a motion for judicial review; or
- a motion in an appeal.

Additionally, all masters are assessment officers in party/party and solicitor/client assessments, and can act as referees on a reference.

The jurisdiction and duties of registrars and deputy registrars include:

- ensuring that all filings in the Supreme and District Courts are in accordance with the Rules of Civil Procedure;
- advising the legal profession and general public of procedural requirements;
- supervising persons employed in the Office of the Registrar;
- processing actions in Supreme, District and Surrogate Courts;
- signing documents including orders, default and interlocutory judgements, mortgage foreclosures and judgements resulting from court decisions;
- issuing and signing writs of seizure and sale and writs of possession;
- collecting and accounting for all fees payable in the Supreme Court;
- acting as Official Examiner;
- acting as assessment officers in party/party and solicitor/client assessments; and
- conducting Landlord and Tenant hearings.

In Toronto there are separate Supreme, District and Surrogate Court registries. Outside of Toronto these registries are combined and a single registrar is appointed.

#### **F. Jurisdiction and Duties of Family Law Commissioners**

In 1978, the office of Family Law Commissioner was created to help with the backlog of divorce cases. Unique to the High Court of Justice and the District Court, the commissioner's jurisdiction has become extensive in family law matters. There are two commissioners in Toronto, one in Ottawa and two part-time commissioners, also in Toronto. The commissioners may only work in Toronto and Ottawa.

Commissioners may preside over hearings referred to them by High Court or District Court judges on consent of both parties. The commissioner submits a report to the referring judge who may confirm, vary or reject entirely the report. The report will be confirmed if both parties accept the findings. Either party may appeal.

### **III. DIVISIONAL COURT OF THE HIGH COURT OF JUSTICE**

#### **A. Composition of the Court**

The Divisional Court, which is a division of the High Court of Justice, consists of the Chief Justice of the High Court and designated High Court justices.

#### **B. Geographic Distribution**

The Divisional Court sits permanently in Toronto and on circuit in London and Ottawa. There are 46 other locations served as required.

#### **C. Jurisdiction of Judges**

The Divisional Court has jurisdiction over applications for judicial review, Surrogate Court appeals and small claims appeals where the claim exceeds \$500. Subject to the Divorce Act (Canada), an appeal also lies to the Divisional Court from,

- a final order of a judge or local judge of the High Court
- for a single payment of not more than \$25,000, exclusive of costs;

- for periodic payments that amount to not more than \$25,000, exclusive of costs, in the twelve months commencing on the date the first payment is due under the order;
- dismissing a claim for an amount that is not more than \$25,000; or
- dismissing a claim for an amount that is more than \$25,000 and in respect of which the judge indicates that if the claim had been allowed the amount awarded would have been not more than \$25,000;
- an interlocutory order of a judge of the High Court with leave as provided in the Rules of Civil Procedure, other than an order on an appeal from the District Court;
- an interlocutory order of a local judge of the High Court, with leave as provided in the Rules of Civil Procedure, other than an order that could have been made by a master;
- a final order of a master; and
- a final order of a local judge of the High Court, where the order could have been made by a master.

#### **D. Jurisdiction and Duties of the Registrar**

Registry support functions for Divisional Court matters are the responsibility of the Supreme Court registrars.

### **IV. DISTRICT COURT**

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#### **A. Composition of the Court**

This Court is established by the Courts of Justice Act, S.O. 1984. The Court consists of the Chief Judge of the District Court, the Associate Chief Judge and 142 other judges appointed federally by the Governor in Council. Additionally, there are 20 supernumerary judges.

#### **B. Geographic Distribution**

The District Court sits in 50 permanent locations, each with its own registry. The Court does not go on circuit.

#### **C. Jurisdiction of Judges**

The District Court is a court of record with civil and criminal jurisdiction.

#### **Civil Jurisdiction**

The District Court has jurisdiction to hear and determine any actions other than those where the sum claimed or the value of the property that is the subject of the action exceeds \$25,000, except on consent of the parties involved. Judges of the District Court may preside, hear and determine actions filed in the Provincial Court (Civil Division).

In family matters, the District Court has jurisdiction over matrimonial property, support, maintenance, custody, access, and guardianship.

Judges of the District Court may sit as local judges of the High Court to hear and determine actions under the Divorce Act of Canada.

#### **Criminal Jurisdiction**

The District Court has jurisdiction in criminal indictable matters where the accused elects trial by judge alone or by judge and jury.

The Court also has appellate jurisdiction over summary conviction offences from the Provincial Court.

Appeals from the District Court are usually to the Court of Appeal, but go to the Divisional Court from a final order of a judge of the District Court,

- for a single payment of not more than \$25,000;
- for periodic payments that amount to not more than \$25,000, over a twelve month period; or
- dismissing a claim for an amount that is not more than \$25,000.

#### **D. Jurisdiction and Duties of Registrars**

The duties of the District Court registrars are generally the same as those described for the registrars of the High Court of Justice.

### **V. UNIFIED FAMILY COURT**

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#### **A. Composition of the Court**

This Court is established by the Courts of Justice Act, S.O. 1984. The Unified Family Court consists of five judges who are appointed federally by the Governor in Council.



## **B. Geographic Distribution**

The Unified Family Court sits permanently in Hamilton, and serves the Judicial District of Hamilton-Wentworth.

## **C. Jurisdiction of Judges**

The Unified Family Court is a court of record in and for the Judicial District of Hamilton-Wentworth. The Court is presided over by judges of the District Court who are local judges of the High Court, and who are also authorized under S. 39 (2) of the Courts of Justice Act to exercise the jurisdiction of Provincial Court (Family Division) judges.

### **Criminal Jurisdiction**

A judge presiding over the Unified Family Court has all the powers of a magistrate under the Criminal Code for the purposes of proceedings under the Criminal Code. The Unified Family Court,

- is deemed to be and sits as the Provincial Offences Court for the purpose of dealing with young persons as defined in the Provincial Offences Act; and
- is a Youth Court for the purposes of the Young Offenders Act of Canada.

### **Family Jurisdiction**

The Unified Family Court has jurisdiction over all family matters under the following legislation:

- Annulment of Marriages Act (Ontario, Canada);
- Child and Family Services Act, 1984 (Parts III, VI and VII);
- Children's Law Reform Act (Except S. 60 & S. 61);
- Divorce Act (Canada);
- Education Act (S. 29 and S. 30);
- Family Law Act, 1986 (Except Part V);
- Marriage Act (S. 6 and S. 9);
- Minor's Protection Act (S. 2);
- Reciprocal Enforcement of Maintenance Orders Act, 1982; and
- Young Offenders Act (Canada).

Appeals from criminal cases heard in this Court are to the District Court on summary convictions and to the Court of Appeal on indictable convictions. Appeals on all other matters are usually to the Court of Appeal, except for divorce matters which are to the Divisional Court.

## **D. Jurisdiction and Duties of the Court Administrator**

The Administrator of the Unified Family Court is also a clerk of the court and performs the normal functions of a clerk.

In addition to overseeing the administration of the Court, the Administrator also has jurisdiction to:

- perform (under Unified Family Court rules) references by judges of that Court;
- act as an assessment officer in party/party and solicitor/client assessments; and
- conduct first appearance hearings under the Family Law Act.

## **VI. SURROGATE COURT**

### **A. Composition of the Court**

This Court is established by the Surrogate Court Act, R.S.O., 1980. The judges of the Surrogate Court are all District Court judges appointed by the province to act as Surrogate Court judges.

### **B. Geographic Distribution**

The Surrogate Court is located in every county and judicial district in the province. It cannot go on circuit.

### **C. Jurisdiction of Judges**

The jurisdiction of the Surrogate Court extends to all matters and causes testamentary and the granting or revoking of probate of wills and letters of administration.

Appeals from the Surrogate Court are to the Divisional Court in all cases.

### **D. Jurisdiction and Duties of the Registrar**

The duties of registrars are usually performed by the registrars of the District Court who are also appointed as registrars of the Surrogate Court. However, in Toronto there are separate registrars for

the District and Surrogate Courts for the Judicial District of York.

## VII. PROVINCIAL COURT

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### A. Composition of the Court

This Court is established by the Courts of Justice Act, S.O. 1984. There are three divisions of the Court: Criminal, Family, and Small Claims (Civil).

The Family Division consists of the Chief Judge of the Provincial Court (Family Division), the Associate Chief Judge, 58 full time judges, and eight judges serving both Criminal and Family Divisions.

The Provincial Court (Civil Division) Small Claims Court consists of the Chief Judge of the Civil Division and 12 other judges. In the areas for which a Provincial Court judge has not been appointed, the District Court judge presides in the Court. Where a judge is unable to preside, deputy judges (a barrister or solicitor) are appointed to preside in actions for not more than \$1,000.

The Criminal Division consists of the Chief Judge of the Provincial Court (Criminal Division), the Associate Chief Judge, two part-time judges and 155 other judges.

The Provincial Offences Court (which functions as a part of the Provincial Court Criminal Division) is presided over by Provincial Court judges and justices of the peace.

Judges of all of the above courts are appointed provincially by the Lieutenant Governor in Council.

### B. Geographic Distribution

The Provincial Court (Family Division) sits in 55 locations with permanent registry offices and on circuit at 74 other locations.

The Provincial Court (Civil Division) sits in 117 locations throughout the province.

The Provincial Court (Criminal Division) sits at 160 locations with 56 of these locations having permanent Criminal Division registries.

### C. Jurisdiction of Judges

The Provincial Court is a court of record, and every judge has jurisdiction throughout Ontario to exercise all the powers and perform all the duties conferred or imposed on a Provincial Court judge, a magistrate, or

one or more justices of the peace under any Act of the Legislature or of the Parliament of Canada.

### Family Jurisdiction

The Family Division has jurisdiction in the following matters:

- prosecution of young persons under the Young Offenders Act (Canada) for offences and violations of federal law (cases involving persons over the age of 15 may be heard in Criminal Division);
- child protection under the Child and Family Services Act, 1984, dealing with intervention by a local Children's Aid Society into a family's life when the care and treatment of a child by the family fall below certain minimum standards;
- adoption under the Child and Family Services Act, 1984, dealing with the dissolution of previous parent-child relationships and the legal establishment of new ones;
- interspousal rights and obligations under the Family Law Act, 1986, and the Reciprocal Enforcement of Maintenance Orders Act, covering such things as financial support of a dependent spouse and protection from spousal harassment and molestation;
- parent-child rights and obligations under the Children's Law Reform Act, the Family Law Act, 1986 and the Reciprocal Enforcement of Maintenance Orders Act, such as custody and access, findings of paternity, child support, protection from harassment and molestation by the non-custodial parent and extra-territorial enforcement of custody orders;
- at the administrative level, the enforcement of maintenance and support orders against federal civil servants and former civil servants under the Garnishment, Attachment and Pension Diversion Act (Canada); and
- many offences under the Provincial Court Act of Ontario. Many intra-family offences (such as domestic assaults and incest) are heard by judges who, while they normally preside over the Provincial Court (Family Division), reconstitute their court as the Provincial Court (Criminal Division) or Provincial Offences Court because only the latter courts have the jurisdiction to hear these criminal and regulatory matters.

Appeals from the Family Division are to the District Court.

#### Civil Jurisdiction

The Provincial Court (Civil Division) has jurisdiction in any action for the payment of money or the recovery of personal property subject to a monetary limit of \$1,000 exclusive of costs (in the Judicial District of York the maximum limit is \$3,000).

Appeals from the Civil Division are to the Divisional Court in cases where the claim is in excess of \$500.

#### Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

Appeals from the Provincial Court (Criminal Division) are to the District Court in summary conviction cases, and to the Court of Appeal on indictable convictions.

The Provincial Offences Court has jurisdiction over all municipal by-laws and provincial statutes not expressly reserved to other courts.

Appeals from provincial offence cases as heard by justices of the peace are to a Provincial Court judge. Those cases heard by Provincial Court judges are appealed to the District Court.

#### D. Duties of the Court Administrators/Clerks

Court administrators in the Provincial Court (Criminal and Family Division) are appointed under the Public Service Act. The administrators of these two divisions are also clerks of the Provincial Offences Court.

See the general discussion of court registry staff in the section entitled Court Administration.

Clerks of the Provincial Court (Civil Division) Small Claims Court are appointed by the Lieutenant Governor in Council. See the general discussion in the section entitled Small Claims Court Services Branch.

## VIII. COURT SERVICES

### Organization of Court Services

Two Divisions of the Ministry of the Attorney General provide services to the courts.

The Courts Administration Division provides staff who perform all direct administrative, case processing and support services to the courts.

The Programs and Administration Division provides direction to and coordination of the Ministry's program support services. These services are provided to all divisions including Courts Administration.

In addition, the courts benefit from the services of two specialized branches.

The Communications Branch is responsible for communications matters and for the preparation and distribution of all public information materials for the Ministry.

The French Language Services Branch is responsible for ensuring the delivery of the Ministry's French language services.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Ministry of the Attorney General and the Courts Administration Division.

### COURTS ADMINISTRATION

The Courts Administration Division provides all of the services in the court registries for all of Ontario's courts. The functions performed include:

- receiving and processing legal documents;
- issuing service: notices, summonses, warrants for arrest;
- the storage and retrieval of court documents;
- trial scheduling;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, and payments to witnesses;
- receiving, storing and maintaining the integrity of court exhibits;
- preparing court orders;
- coordination of justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, administer oaths, take custody of



documents and evidence in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge; and

- completing forms and compiling data for statistical analysis.

The Courts Administration Division consists of several branches whose responsibilities are described below.

### **Office of the Executive Director**

The Office of the Executive Director provides management direction to the operational branches in the division, supplies administrative support services to the judiciary, facilitates the interaction of the legal profession and the public with the courts, and enforces the decisions of the courts. This office is also responsible for the development of administrative policy for common functions among the operating branches, for the implementation of new programs, and for the use of technology in the administration of Ontario's courts.

### **Facilities and Special Court Services**

Facilities and Special Court Services has the responsibility to review and determine accommodation needs and priorities for Ministry accommodations planning. It is responsible for implementing and coordinating translation, court reporting, and security services.

#### **Facilities Planning and Maintenance**

Facilities, Planning and Maintenance provides general administration of all court and office accommodation throughout the province, and liaison with all capital, leased and alteration projects required by the courts.

#### **Court Reporting Services**

Court Reporting Services is responsible for providing administrative control and direction of all reporting services to all court levels in the province including special examinations and certain boards and commissions. It is also responsible for the development and implementation of approved policies, the establishment of reporting standards, the development of training programs and the provision of direction and support to special examiners in the private sector in Toronto, Hamilton, St. Catharines, Windsor, Ottawa and Timmins.

There are approximately 800 reporters providing reporting services in the province, of which 58 per cent are freelance. Stenomask, stenotype and shorthand are the prime reporting methods with electronic systems being used mainly on examinations for discovery and on provincial offence matters.

The administrative responsibilities of the reporters and recorders include:

- maintaining recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto the tape during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription services; and
- preparing invoices and billings.

### **Court Interpretation and Translation Services**

Court Interpretation and Translation Services is responsible for planning, coordinating and ensuring the delivery of professional interpretation and translation in French to all court levels throughout the province. It also provides translation services for Ministry branch offices, boards and commissions.

Interpretation Services has been established with a coordinator located in Ottawa who provides court interpretation to the Ottawa courts and coordinates eight interpreters in five other locations.

#### **Security Services**

The formation of the Facilities and Special Court Services Branch was intended, in part, to provide a single, coordinated focus for the provision of court security services. The Branch is responsible for:

- assessing courthouse security measures;
- evaluating immediate security improvement needs;
- establishing security standards for present and future court facilities;
- developing a quality monitoring system for court security;



- including security considerations and systems in the design of new courthouses; and
- using new technology to provide court security.

### **Office of Judicial Support Services**

The Office of Judicial Support provides support to Provincial Court judges, masters of the Supreme Court of Ontario, justices of the peace and family law commissioners. Its responsibilities also include administering the appointment procedures for lay notaries public and commissioners for taking affidavits.

The support services provided to the judiciary include:

- administering the appointments process of the provincial judiciary;
- preparing and monitoring budgets for salaries, allowances, benefits, travel, education and training for provincially appointed judiciary;
- administering and explaining the Provincial Judges Benefits Plan;
- coordinating evaluation of the Assistant Deputy Attorney General's requests for additional judicial resources; and
- resolving issues related to judicial expenses, benefits and allowances referred by chief judges or the Senior Master of the Supreme Court of Ontario.

### **Small Claims Court Services Branch**

The Small Claims Court Services Branch provides administrative direction to 117 divisions of the Provincial Court (Civil Division) Small Claims Courts throughout the province. The director is responsible for analyzing the needs of the courts, both judicial and administrative, and for providing procedural and administrative guidance, and coordinating the development and implementation of Ministry policy and procedures with respect to the operation of these offices.

For each division there is a clerk and one or more bailiffs. In some of the smaller divisions, a clerk/bailiff carries dual responsibilities. Clerks and bailiffs are appointed by Order-in-Council upon the recommendation of the Attorney General.

Of the 117 division, 101 operate on a fee-for-service basis. Each clerk and bailiff provides, out of fees, all necessary staff, accommodation, furniture and equipment. Ten divisions are salaried with the Ministry setting staffing standards and salaries are paid out of the fees generated. Six divisions have been amalgamated with either a Sheriff/Registrar's office or simply a Court Registrar's office.

There are also 17 court referees (three full-time salaried referees and 14 referees paid on a fee-for-service basis) appointed for various divisions throughout the province. The primary role of the referee is to attempt to arrange settlement of disputed claims but the referee also has other responsibilities as directed by the Court.

### **Trial Coordinator**

The trial coordinator for the Provincial Court (Civil Division) in Metropolitan Toronto ensures that all matters are being set down for trial and/or pre-trial at the earliest possible time.

### **Supreme and District Court Services Branch**

The Office of the Director provides administrative direction to all of the Supreme, District and Surrogate Court offices and sheriff's offices throughout the province. In addition, the director's office coordinates the development and implementation of Ministry policy and procedures with respect to the operation of these offices.

### **Sheriff Services**

In Ontario, sheriffs:

- supervise persons employed in the sheriff's office;
- ensure the service of legal documents relating to actions or applications before the courts;
- file writs of seizure and sale, possession;
- provide certificates as to executions against individuals or corporations;
- place a levy on writs providing for seizure of goods and chattels, sheriff's sales and eviction as directed;
- oversee selection of jurors;
- act as commissioners of oaths;

- issue and sign documents such as warrants, jury summonses, notices to vacate, abstracts, etc.;
- provide court constables at Supreme and District Court sittings and provide security in the courthouse;
- arrange transportation and accommodation for out-of-town judges;
- escort prisoners in courthouse;
- conduct sales of land, vehicles; and
- handle evictions under the Landlord and Tenant Act.

In the Provincial Court (Family Division), security is the responsibility of court constables who are provided by Sheriff Services on a fee-for-service basis. In the Provincial Court (Criminal Division), security is provided by police agencies.

### **Provincial Court Services Branch**

The staff of the Provincial Court offices provide administrative support to the Provincial Courts (Criminal and Family Divisions), including Youth Court and the Provincial Offences Court, through clerical, stenographic, court support and court reporting services. The staff provide service to the public by accepting fine and support payments and by performing other activities related to financial transactions. The processing of case file documents is also an integral part of court operations.

### **Support and Custody Enforcement Program**

The Support and Custody Enforcement offices were established in July 1987 with the goals of decreasing the high rate of support default in Ontario and changing public attitudes about default.

Located in eight municipalities, these offices enforce support and custody provisions contained in court orders and agreements employing a variety of prescribed legal remedies. Such remedies include garnishment, seizure and sale of assets, and default hearings.

All support orders made by a court in Ontario after July 2, 1987 are automatically filed for enforcement at the time the order is made. The automated system monitors payments, identifies overdue payments and prepares cheques to be sent to support recipients.

## **PROGRAMS AND ADMINISTRATION DIVISION**

This Division is responsible for the direction and coordination of the Ministry's program support services including:

- budgeting, financial management and reporting;
- information and computer systems;
- personnel services;
- program analysis, monitoring and evaluation;
- office administration services;
- auditing;
- employment equity;
- research; and
- legal library services.

Also included in the responsibilities of the Division are the Office of the Supreme Court Accountant and the administration of a number of transfer payments such as those to the Ontario Legal Aid Plan and the Ontario Native Courtworker Program.

### **Human Resources Branch**

The Human Resources Branch is responsible for the development, coordination, and administration of the full range of personnel services within the Ministry of the Attorney General. This Branch also manages the program for the appointment of justices of the peace, notaries public and commissioners for taking affidavits, and administers the Blind Persons' Rights Act on behalf of the Ministry.

### **Audit Services Branch**

This Branch provides assistance to senior management of the Ministry by determining whether adequate administrative and financial control measures are in place to safeguard assets entrusted to the Ministry, and that Ministry resources are properly accounted for and effectively utilized.

### **Financial Management and Program Planning Branch**

The responsibilities of this Branch include:

- providing financial and analytical services to the Ministry;
- acting as liaison with central agencies on financial and program matters (the Branch manages the budgetary resources to ensure

that programs are funded to the level required to meet operating responsibilities); and

- assisting in the improvement and development of programs and activities, and providing an efficient and responsive financial reporting system.

This is accomplished through three distinct but related sections of the Branch: Budgeting, Finance and Accounts, and Program Planning and Analysis.

The financial planning and reporting activities include:

- expenditure planning forecasts;
- estimates preparation and allocation;
- monthly financial reporting;
- coordinating financial and manpower needs;
- monitoring, forecasting and assisting in controlling Ministry expenditures; and
- Management Board and Treasury liaison.

The accounts section provides a timely payment process for supplier accounts and payroll services and also provides a revenue recording and reporting function for the Ministry.

The Program Planning section acts as liaison with the central agencies of the government, analyzes the allocation of Ministry resources and assists in improving and developing programs and activities through quantifying and qualifying the delivery of Ministry programs. Other duties include:

- developing effective methods to deliver services;
- reviewing the financial impact of new initiatives;

- analyzing, coordinating, administering and developing federal/provincial/municipal cost-shared programs;
- coordinating the production of recommendations on issues;
- producing submissions to central agencies;
- administering the Public Institution Inspection Act;
- providing administrative support to Royal Commissions, judicial inquiries and special studies; and
- conducting specific research assignments.

### **Computer and Telecommunications Services Branch**

This Branch provides information management support services to the Ministry and the provincial courts, including computer system development and support, office technology and support, end-user consulting and training, telecommunications, library, research and statistical services, and records and forms management.

### **Accountant, Supreme Court of Ontario**

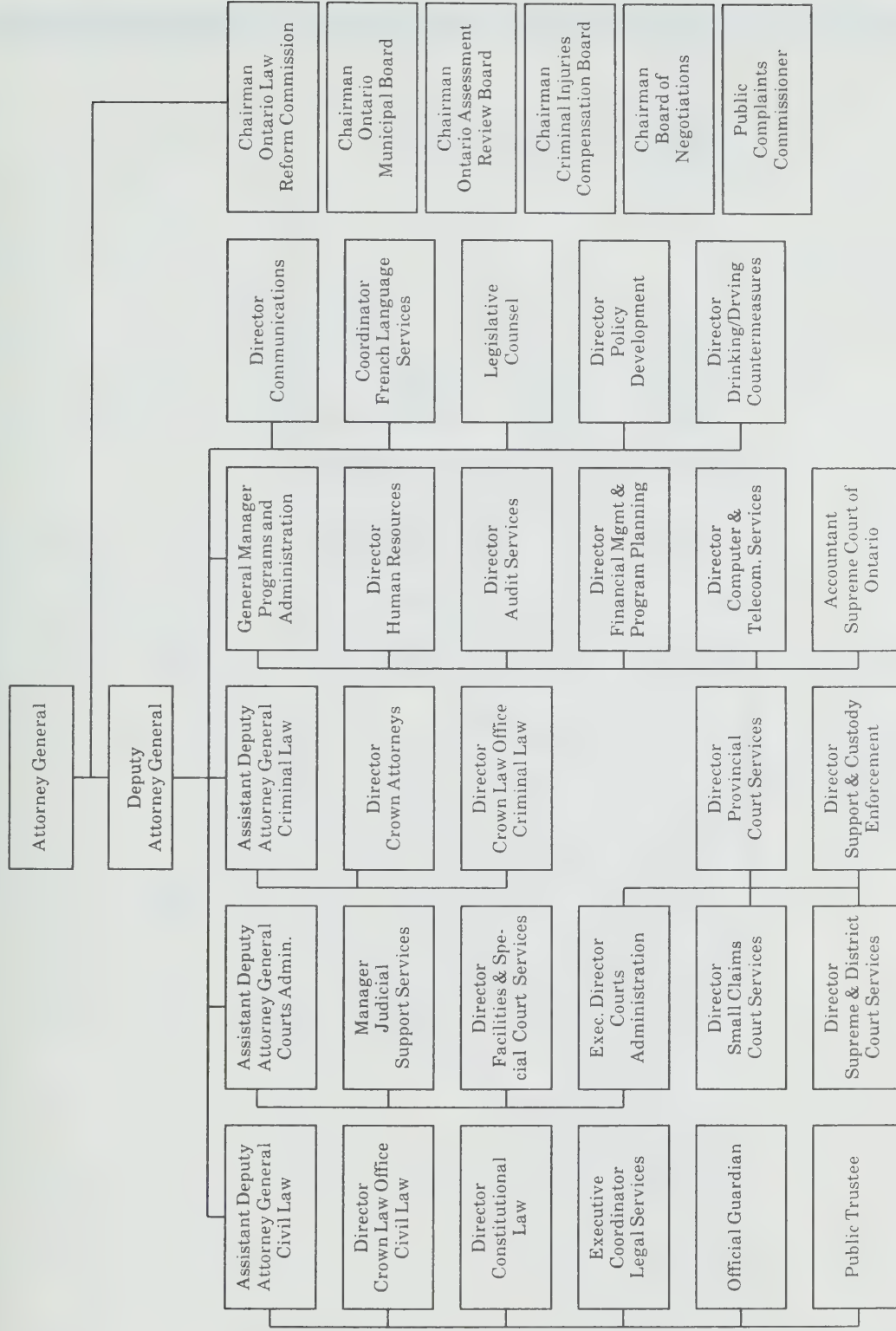
This office is the depository for all money, mortgages and securities which are paid into, or lodged with the Supreme Court of Ontario. These are received and disbursed or released upon judgements and orders of the Court and in accordance with the Courts of Justice Act and other relevant statutes.

### **Employment Equity Program**

The government-wide goal of the affirmative action program is to achieve in all ministries, by the year 2000, a minimum of 30 per cent female representation in all classifications.

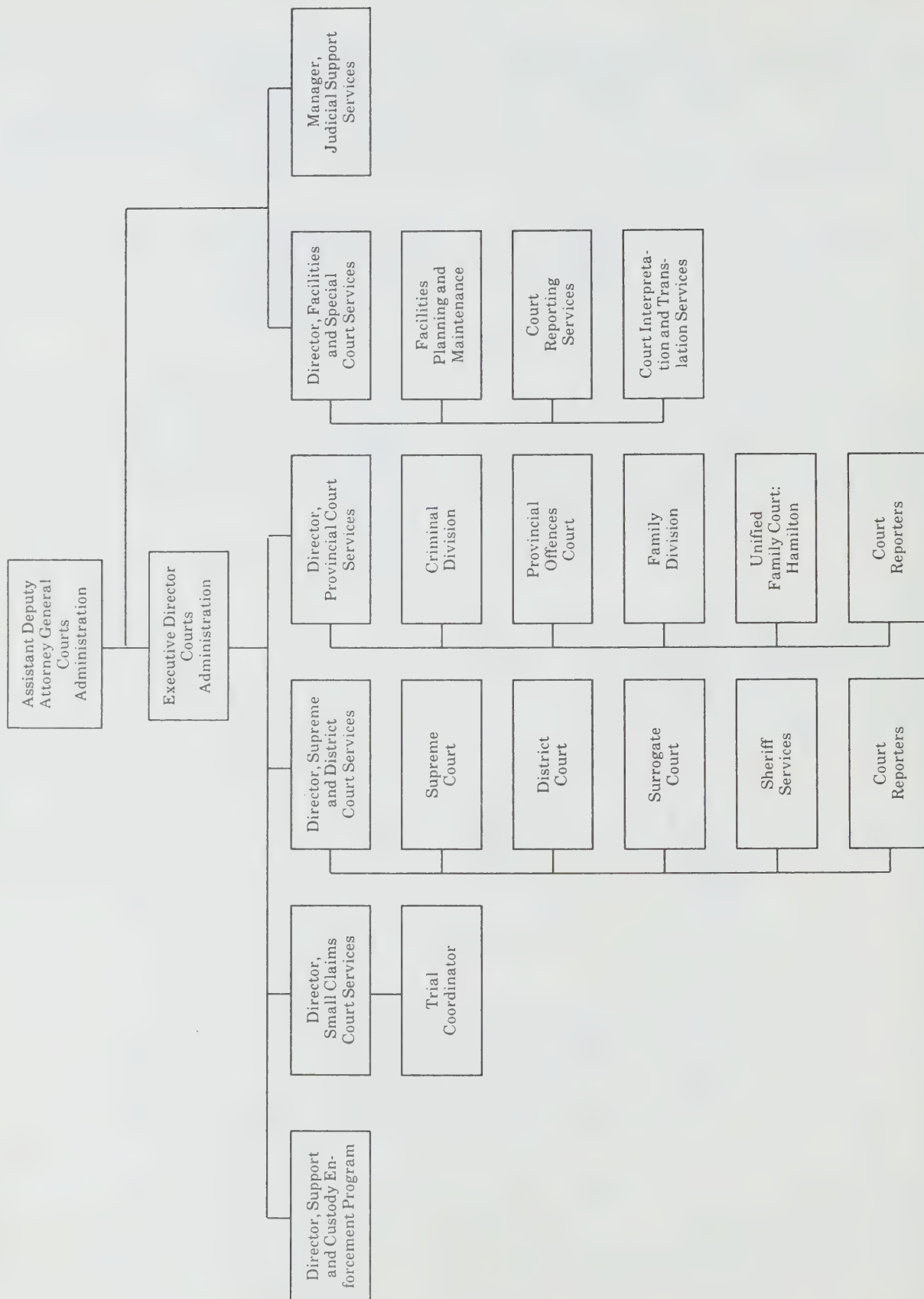


# MINISTRY OF THE ATTORNEY GENERAL, ONTARIO

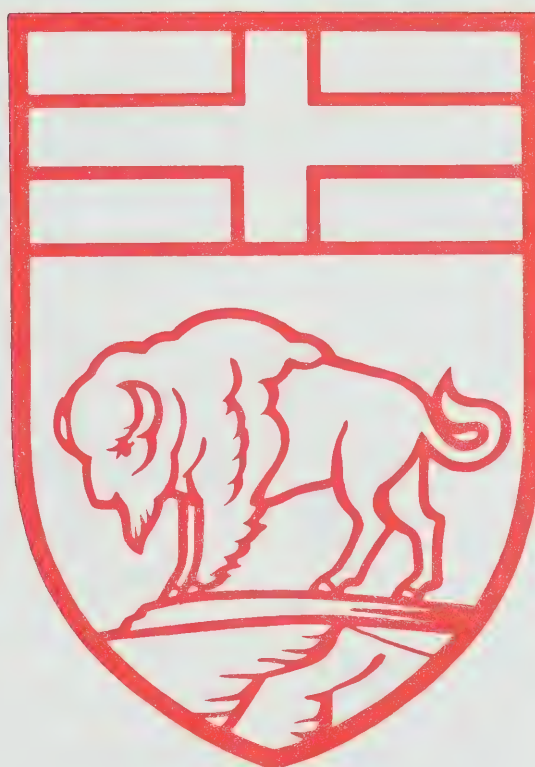




# COURTS ADMINISTRATION DIVISION, ONTARIO



# Manitoba





## **I. COURT OF APPEAL**

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### **A. Composition of the Court**

This Court is established by the Court of Appeal Act, R.S.M. 1970. The Court of Appeal consists of the Chief Justice of Manitoba and six other justices who are appointed federally by the Governor in Council.

The Court generally sits with a quorum of three justices and on occasion with five. One justice may hear interlocutory matters in chambers.

### **B. Geographic Distribution**

The Court sits on a regular basis in Winnipeg.

### **C. Jurisdiction of Justices**

The Court of Appeal has appellate jurisdiction in civil and criminal cases heard by the Court of Queen's Bench and indictable offences heard by the Provincial Court. Justices of the Court of Appeal are all *ex officio* judges of the Court of Queen's Bench. Similarly, the Court exercises appellate responsibility concerning some hearings before administrative boards.

### **D. Jurisdiction and Duties of the Registrar**

The Registrar of the Court of Appeal is appointed under the Civil Service Act. The Registrar and deputy registrars have the same power as taxing officers of the Court and have authority to exercise the jurisdiction of a judge sitting in chambers. The specific functions of the Registrar include:

- placing appeals filed in the Court of Appeal before the judiciary;
- fixing the dates on which each appeal will be heard;
- ordering transcripts of evidence on all sentence appeals;
- ensuring that transcripts have been ordered for all other criminal appeals and for all civil appeals; and
- certifying all case books to the Supreme Court of Canada.

In addition, the Registrar supervises the daily administrative operations of the Court.

## **II. COURT OF QUEEN'S BENCH**

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### **A. Composition of the Court**

This Court is established by the Court of Queen's Bench Act, R.S.M. 1970. The Court consists of the

Chief Justice and an Associate Chief Justice of the Court of Queen's Bench and an Associate Chief Justice of the Court of Queen's Bench, Family Division, and 27 puisne justices who are all appointed federally by the Governor in Council. Additionally, there are two supernumerary justices.

Five puisne justices are assigned to serve full time in the Family Division of the Court.

### **B. Geographic Distribution**

The Court of Queen's Bench has 16 locations (administrative centres) with permanent registries. Civil and family matters can be heard at 12 of these locations (judicial centres), while criminal cases can be heard at six of these locations (criminal centres).

### **C. Jurisdiction of Justices**

The Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the province, except those matters expressly excluded by statute.

#### **Civil Jurisdiction**

The Court of Queen's Bench can hear all civil matters with no limits on the monetary amount involved.

Pursuant to the Surrogate Practices Act, 1984, Court of Queen's Bench justices also serve as Probate Court judges and have jurisdiction and authority in relation to all matters and causes testamentary.

Pursuant to the Small Claims Practices Act, 1984, small claims matters with a monetary limit of \$3000 are generally heard by deputy or assistant deputy registrars and hearing officers of the Court of Queen's Bench. The defendant, however, does have the right to have the matter heard by a justice of the Court. Small claims hearings are not heard in a court of record.

#### **Family Division**

The Court of Queen's Bench (Family Division) has jurisdiction to hear all family actions. Family actions are defined as any civil proceeding for the determination or variation of the family status of the parties, or of custody or wardship of infants, or of the family obligations and rights between married persons or persons who have been married or between persons who are living or have lived together as husband and wife in a common-law relationship. Also included are family obligations



and rights between parents and their children whether the action or proceeding is based on statute law, common law or the inherent jurisdiction of the Court, other than proceedings by way of summary conviction. Proceedings under the following may be heard:

- the Child Welfare Act;
- S. 3(2) and S. 5(3) of the Change of Name Act;
- S. 6, S. 11, S. 12 and S. 13 of the Dower Act;
- every proceeding under the Family Maintenance Act;
- the Law of Property Act for a partition or sale of land between spouses, or former spouses or persons who are living or have lived together as husband and wife in a common-law relationship;
- S. 8 of the Married Women's Property Act;
- the Marital Property Act;
- every application under the Marriage Act for consent to an intended marriage of a minor;
- the Reciprocal Enforcement of Maintenance Orders Act;
- the Parents Maintenance Act;
- the Child Custody Enforcement Act;
- the Divorce Act (Canada);
- the Divorce and Matrimonial Causes Act;
- every proceeding for enforcement or variation of an order or judgement of any court requiring a person to pay maintenance or alimony to or on behalf of the person's spouse, former spouse, child or other dependent or to or on behalf of another person with whom the first mentioned person is living or has lived as husband and wife in a common-law relationship; and
- every proceeding for an order, judgement or declaration respecting the family status of the parties, custody or wardship of an infant or any other similar application based on the inherent jurisdiction of the court other than proceedings by way of summary conviction.

In rural court locations, family matters are also heard in Provincial Court.

#### Criminal Jurisdiction

The Court of Queen's Bench has jurisdiction in indictable offences under the Criminal Code of Canada.

The Court also hears appeals on summary conviction offences from the Provincial Court.

#### D. Jurisdiction and Duties of Court Officers

Officers of the Court of Queen's Bench are appointed under S. 11 of the Queens's Bench Act. In Winnipeg,

these appointments may be held by individual persons while in the rural court locations the same person may act in several capacities.

#### Deputy Registrars and Assistant Deputy Registrars

Under the Registrar, Court of Queen's Bench, deputy registrars and assistant deputy registrars are responsible for:

- registration of bankruptcies;
- uncontested personal bankruptcies;
- hearing small claims disputes;
- taxing bills of costs;
- signing interim and final court orders;
- inquiring into the merits of an application to the Court; and
- issuing notices, summonses, warrants for arrest, writs and orders of the Court.

In addition, deputy registrars and assistant deputy registrars supervise persons employed in the court registry. In rural court locations, assistant deputy registrars are also appointed as marriage commissioners and perform marriages on a regular basis.

### III. PROVINCIAL COURT

#### A. Composition of the Court

This Court is established by the Provincial Court Act, S.M. 1972. The Court is composed of three divisions: Criminal, Family and Youth. In Winnipeg, the Provincial Court hears criminal and youth matters. While outside of Winnipeg it hears criminal, youth and family matters.

The Provincial Court consists of the Chief Judge of the Provincial Court, an Associate Chief Judge (Criminal Division), an Associate Chief Judge (Family and Youth) and 35 other judges all of whom are appointed provincially by the Lieutenant Governor in Council.

#### B. Geographic Distribution

The Provincial Court sits in 19 locations with permanent registries and on circuit in 49 locations.

#### C. Jurisdiction of Judges

The Court is a court of record, and the Court and every judge have jurisdiction throughout the

province to exercise all the power and perform all the duties conferred or imposed on a judge of the Provincial Court, a magistrate, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.

### Family Division

The Family Division hears cases under the Child Welfare Act, Reciprocal Enforcement of Maintenance Orders Act, and the Family Maintenance Act, as well as intra-family Criminal Code matters. Generally, family matters in the Provincial Court are heard only in areas outside the Winnipeg district which is served by the Family Division of the Court of Queen's Bench.

### Youth Division

The Youth Division has original jurisdiction in all youth matters as defined by the Young Offenders Act.

### Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

Appeals from all cases originating in the Provincial Court are to the Court of Queen's Bench in summary matters and to the Court of Appeal in indictable matters.

In hybrid offences, a case is deemed to have properly proceeded in the Provincial Court when the Crown fails to make its election as to mode of procedure.

### D. Jurisdiction and Duties of Clerks

Having the appointment of magistrate, clerks of the court can perform many pre-trial and formal court proceedings. Specific functions for which they are responsible include:

- presiding in By-law Court when required;
- assessing penalties under summary conviction Criminal Code offences and provincial statutes;
- indicating bail for accused persons in custody;
- releasing prisoners on bail after examination of sureties;
- taking informations and issuing search warrants;
- signing warrants of committal, sentencing warrants and also warrants for arrest where authorization may be given by a justice for release;

- conferring with Crown prosecutors and police on the laying of charges and advising the public of their rights regarding court matters;
- processing of breaches of probation regarding the non-payment of restitution ordered by the Court;
- taking informations and issuing orders and warrants under the Mental Health Act;
- assessing default convictions;
- endorsing out of province warrants; and
- trial coordination.

Clerks which have justice of the peace appointments exercise many of the same functions as magistrates, but do not have jurisdiction in certain Mental Health Act matters.

In addition, the senior clerks are responsible for the general supervision of registry staff.

## IV. COURT SERVICES

### Organization of Court Services

The Courts Division is responsible for the administration and operation of all courts in Manitoba. The Courts Division is organized into several distinct programs: Court of Appeal; Court of Queen's Bench, Winnipeg; Provincial Court, Winnipeg; Rural Courts; Master/Referee; and Court Services Administration. The Rural Courts program is responsible for the courts outside Winnipeg including the Court of Queen's Bench, the Provincial Court and the management of magistrates and justices of the peace. Court Services Administration includes programs such as Sheriff Services, Court Reporting Services, Maintenance Enforcement, Court Communicators and the Legal Library Resources. These programs provide necessary services to the courts. In addition, those activities common to all court registries may be found in the section entitled Common Court Registry Functions.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department of the Attorney General and the Courts Division.

## COURTS DIVISION

### Court of Appeal

The court administrative functions provided through this Branch include:

- certifying each certificate of decision to be filed in the court of original jurisdiction; and



- directing the release from custody of prisoners once the terms of bail have been complied with.

### **Court of Queen's Bench - Winnipeg**

The court administrative functions provided through the court registry include:

- clerical support to all masters, referees and registrars;
- administration of orderly payment of debts under the Bankruptcy Act;
- collecting, accounting for, and depositing monies paid into court in the form of fines, fees and funds held in trust;
- data entry;
- coordination and scheduling of all Court of Queen's Bench trials in the province;
- motions coordination; and
- the provision of clerical and secretarial support for the judges.

### **Provincial Court – Winnipeg**

The administrative functions provided include:

- sorting and filing informations from court;
- typing necessary court documents such as probation orders, recognizances, remand warrants and jail release forms;
- preparing warrants of committal and warrants to apprehend for the signature of the judge;
- collecting, accounting for, and depositing monies paid into court in the form of fines, fees and funds held in trust;
- administering restitution monies; and
- updating the computer information system.

### **Rural Courts**

This Branch is responsible for providing all court registry and administrative functions to all Court of Queen's Bench and Provincial Court locations outside of the Winnipeg district. These functions include:

- the administration of orderly payment of debts under the Bankruptcy Act;
- motions coordination;
- the provision of clerical and secretarial support for the judges;
- sorting and filing informations from court;
- typing necessary court documents such as probation orders, recognizances, remand warrants and jail release forms;
- preparing warrants of committal and warrants to apprehend for the signature of the Provincial Court judge;

- collecting, accounting for, and depositing monies paid into court in the form of fines, fees and funds held in trust;
- administering restitution monies;
- the enforcement of Family Maintenance Orders; and
- library maintenance.

Trial coordination and scheduling in Court of Queen's Bench rural locations are done centrally in Winnipeg while rural judges schedule their own motions hearings. In Provincial Court rural locations, the Crown prosecutors arrange for trial scheduling.

The registries of the Court of Queen's Bench and Provincial Court rural locations are integrated and have common staff.

In addition, several administrative duties relating to fee-paid justices of the peace and magistrates in Manitoba are the responsibility of the Rural Courts. These include:

- recommending appointments and revocations of justices of the peace and magistrates;
- training all fee-for-service justices of the peace and magistrates;
- providing selected statistics, legislation and procedures manuals;
- updating and revising the procedures manual on an annual basis;
- the organization and provision of a justice of the peace and magistrate starter package which includes standard forms, receipts, envelopes, identity stamps, and so forth;
- revising, simplifying and designing judicial forms;
- recommending and drafting amendments to, and complete revisions of various statutes which are often referenced;
- advising justices and other agencies of the intent and implications of changes in law; and
- acting as liaison with police.

Justices of the peace and magistrates have authority to take guilty pleas on provincial statutes, regulations and by-laws. Additionally, they may take pleas of guilty on specific summary Criminal Code and federal statute offences, the authority for which is granted on an individual basis, or in some cases, by blanket authority of the Crown.

### **Common Court Registry Functions**

Those functions common to all court registries are as follows:

- receiving and processing legal documents;
- ensuring all filings in the court are in accordance with procedural requirements;
- storing and retrieving court documents;
- receiving, storing, maintenance and release of court exhibits;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;
- completing forms and compiling data for statistical purposes;
- providing information to the general public and to lawyers on procedural requirements;
- providing information necessary for other related services to operate, such as monitoring of restitution and maintenance orders; and
- administering youth document records (access and destruction).

### **Masters and Referees**

Masters and referees adjudicate procedural motions in the civil and family divisions, enforce maintenance orders, conduct appearances in the family division, tax costs, and hear various Child and Family Services Act matters. In addition, they adjudicate certain bankruptcy and Surrogate Court matters, and conduct hearings on matters referred to them by judges of the Court of Queen's Bench. The senior master also assumes administrative responsibility for the hearing officers who handle Small Claims Court, the screening of enforcement matters, and taxation of costs. The decisions of these provincially appointed judicial officers are subject to an appeal to a judge.

### **Hearing Officers**

The duties of hearing officers are principally the adjudication of small claims matters in the Court of Queen's Bench. In addition, they act as screening officers who conduct examination hearings pursuant to provincial family legislation and monitor court orders in the Family Division of the Court of Queen's Bench.

### **Court Services Administration**

Court Services oversees the operation of several support services. These include Sheriff Services, Court Reporting Services, Maintenance Enforcement Services, Court Communicators and the Legal Library Resources.

A number of administrative support services are provided to the courts through the Administrative Services unit of the Court Services Branch. These include:

- Legal Research which reviews all legislation being proposed affecting the Courts Division, and approves all legal court appointments and Orders-in-Council;
- Financial Services which provides analysis of expenditures and cash flows and assists in the preparation of budgets and financial systems;
- Facilities Coordination which processes all requests for space, supplies and services;
- Systems Coordination which undertakes systems analysis, and reviews and approves requests for systems hardware and software purchases and program personnel;
- Accounts Payable which processes all accounts for payment and provides commitment accounting;
- Personnel Administration which reviews and approves all person year requests and reclassification and assesses staffing needs;
- Forms Control which orders all forms through an inventory system and assists in forms design; and
- Word Processing which produces various reports and documents.

The work of this unit reduces considerably the services required of the Administration and Finance Division of the Department of the Attorney General.

### **Sheriff Services**

The authority for the appointment of sheriffs and sheriff officers lies in the Public Service Act and the Sheriff Act. In Manitoba all sheriff officers are appointed as special constables pursuant to the Provincial Police Act. Pursuant to the Criminal Code, the sheriff is also a peace officer with province-wide jurisdiction.

Sheriff Services performs a number of services related to both criminal and civil case processing and court operations:

- the service of criminal documents
  - criminal summonses and subpoenas;
- the service of civil documents



- civil summonses and subpoenas, garnishing orders, petitions, notices and other civil documents;
- court security
  - escort and protect judges while attending court;
  - supervise and protect accused;
  - protect the public attending court;
  - protect witnesses; and
  - arrest on order of the judge (contempt);
- jury management
  - summon, pay, provide comforts for juries;
  - prepare attendance lists;
  - seclude and guard juries;
  - generate, prepare and distribute jury roles; and
  - conduct jury orientation sessions;
- escorts
  - accused and convicted persons, both adult and young offenders, after arrest between lockups or detention centres, from lockup or detention centre to court, on remands, and after sentence to provincial or federal detention centres;
  - witnesses when ordered by court and when in custody; and
  - persons committed to mental institutions under the Mental Health Act and for court ordered psychiatric assessments;
- executions
  - writs of seizure and sale and other writs of execution issued under the Queen's Bench Rules;
  - writs of fieri facias (federal courts);
  - sheriff sales (seized goods);
  - orders of replevin;
  - arrests on warrants of committal in criminal matters;
  - arrests on civil warrants of committal;
  - evictions (court-ordered); and
  - service of distress warrants;
- prisoner holding
  - supervise holding units in courthouse;
  - provide food for persons in custody while in holding unit awaiting court proceedings; and
  - escort and supervise prisoners during court appearances;

- locate for enforcement order purposes

- a locate unit of sheriffs' officers searches various registry systems such as the Manitoba Health Registry and the Motor Vehicle Registry, to locate the addresses of defaulters under the Maintenance Enforcement Program, and makes enquiries when necessary as to assets or the ability to pay.

### Court Reporting Services

Court reporters who report proceedings are generally full-time staff in the Court Services Branch. They cover all matters heard in the Provincial Court including matters under the Young Offenders Act, and hearings and trials in the Court of Queen's Bench. Court reporters also attend government hearings and commissions such as the Police Commission, Human Rights Commission and the Law Enforcement Review Agency. Small claims proceedings are not recorded except upon appeal to a Court of Queen's Bench judge. Reporters are paid a salary for their court services and receive fees from both the Crown and private counsel for the preparation of transcripts. From fees received the reporters pay typists, materials, equipment and photocopying.

Administrative responsibilities of the reporters include:

- the maintenance of recording equipment and supplies;
- taking verbatim court proceedings and all other matters of record;
- dictating from notes on recordings to a dictating machine for use by a transcriber who produces a typewritten transcript;
- proof-reading typewritten transcripts, sorting and binding copies for distribution;
- maintaining a record of monthly transcript production for submission to the Chief Reporter;
- travelling to circuit and northern court sittings;
- opening and closing court and marking exhibits on circuit courts without clerks;
- preparing invoices and billings;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto tape during proceedings; and
- maintaining a written log of participants and events during proceedings.

Transcripts are provided upon request for all oral judgements given in the Court of Queen's Bench and are submitted to the judge. Transcripts are prepared

for all preliminary inquiries upon Crown request and are automatically provided for reciprocal maintenance hearings. Transcripts for Appeal Books must be available prior to appeal hearing dates.

### **Maintenance Enforcement Services**

In Manitoba, court orders and separation agreements stipulating maintenance support for spouses or children are enforced by the Maintenance Enforcement Program which is a special program within the Court Services Branch. The program is province-wide in scope and orders made in reciprocating jurisdictions in accordance with the provisions of the Reciprocal Enforcement of Maintenance Orders Act are also enforced.

The program monitors all orders enrolled on it and enforces delinquent accounts by means of a computerized account record. The Family Maintenance Act provides the program with the statutory authority to initiate enforcement action. These provisions include:

- the requirement that orders made in Manitoba must automatically be enrolled with the program if they include maintenance payment provisions (divorce orders must specify enforcement through the program);
- the requirement of the program to automatically monitor all orders and separations so enrolled, and to take enforcement measures on all delinquent accounts;
- the authority for the program to issue summonses, issue garnishing orders, obtain writs of execution for the seizure of property, obtain the appointment of a receiver, register the arrears against property in a land titles office, and initiate proceedings for the imposition of a penalty;
- the authority to offer advice respecting enforcement proceedings before a judge or master and the penalties that may be imposed including specific provision for a prison term if a person defaults the judge's/master's order; and
- the creation of screening proceedings before a deputy registrar of the Court of Queen's Bench to examine a defaulter's financial situation, to make an interim order based on the defaulter's proposal to repay arrears, and to issue warrants of arrest in the event a defaulter fails to appear when lawfully served.

### **Court Communicators**

Court communicators assist native people in developing a better understanding of their rights, interests, privileges and obligations in relation to the criminal justice system. The court communicator's role is to explain court process, the nature of charges involved, the possible outcomes of a court case, and to provide assistance in obtaining a lawyer. If a native person requires assistance in filling out applications for legal aid or other benefits, the court communicator will assist in that process as well. Most work is done outside the courtroom, consulting with clients' lawyers and performing other duties as required. Communicators also attend court to provide guidance and support and can provide the court with relevant information regarding the accused.

There are twelve court communicators in Manitoba, under the direction of a Chief Court Communicator in Winnipeg. They are located throughout the province in Fort Alexander, Brandon, Dauphin, The Pas, Thompson, Grand Rapids and Winnipeg. They travel to various locations within their areas as required. The program is jointly funded by the provincial and federal governments.

### **Legal Library Resources**

This unit is responsible for maintaining all legal libraries in Manitoba which have been centralized under Court Services: the Great Library in Winnipeg and four rural courthouse libraries (Brandon, Dauphin, The Pas and Thompson) formerly maintained by the Law Society, the Attorney General's library, and the various judicial and office collections throughout Manitoba.

Responsibilities include:

- development and evaluation of policies and services;
- research (computerized and manual) on legal matters;
- lending of books and journals;
- borrowing and lending of library materials;
- selection, ordering and cataloguing of new resources;
- delivery of information on a province-wide basis; and
- promoting coordinated library services to management and clientele.

The four rural courthouse libraries are maintained by local court registry staff.

## **FINANCE AND ADMINISTRATIVE SERVICES (ATTORNEY GENERAL)**

The Finance and Administrative Services Division of the Department of the Attorney General provides financial, personnel, administrative and systems services to all divisions of the Department of the Attorney General, including Court Services.

Financial functions include ensuring that all voted funds provided to the department and all revenues generated by departmental programs are completely accounted for and that all expenses are properly authorized and made in accordance with applicable government policy. This is done through verification

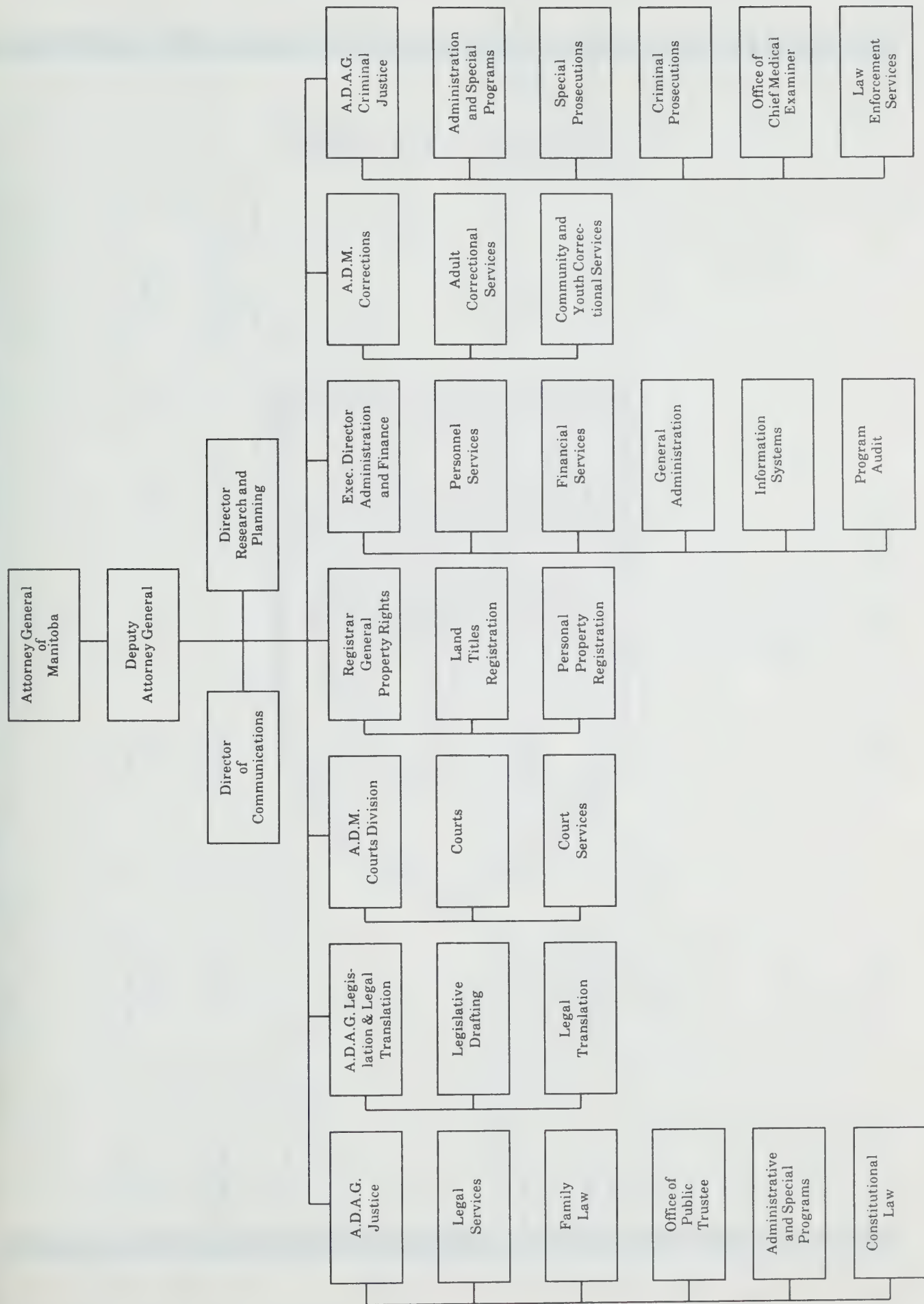
procedures and operational reviews of various program areas.

Administrative services include the coordination and provision of a variety of support services related to space planning, acquisition of furnishings and acquisition and maintenance of office equipment. Activities involve provision of office supplies, office moves and renovations, central filing services, a records management program, assets inventories, insurance, security, fleet vehicle assignment, telecommunication services and workplace health and safety.

In addition, the Division pays all departmental salaries and assists in systems development.

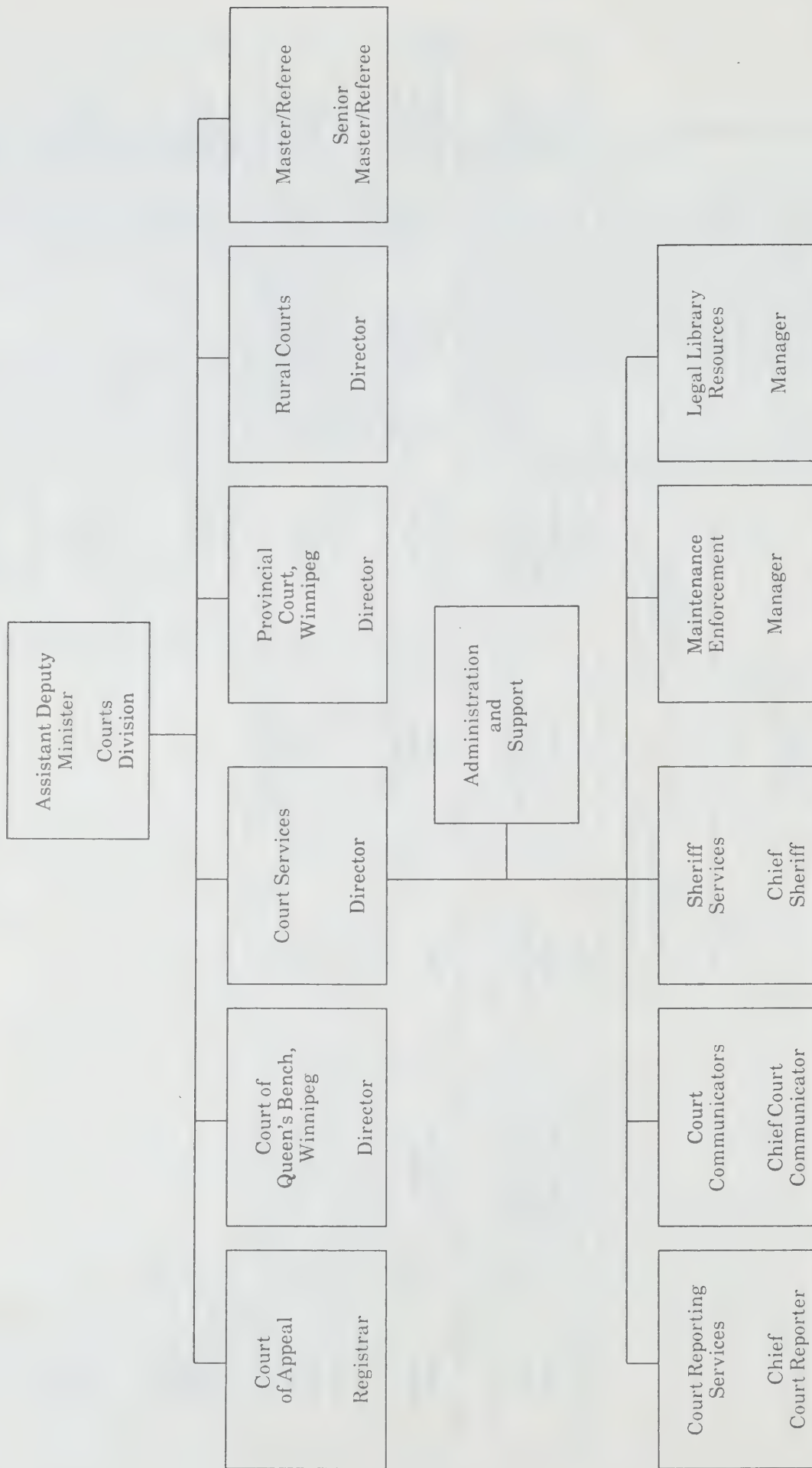


# DEPARTMENT OF THE ATTORNEY GENERAL, MANITOBA





# COURTS DIVISION, MANITOBA



# Saskatchewan





## I. COURT OF APPEAL

### A. Composition of the Court

This Court is established by the Court of Appeal Act, R.S.S. 1978. The Court of Appeal consists of the Chief Justice of Saskatchewan and six other Appeal Court justices who are appointed federally. There are also two supernumerary justices.

The Court generally sits with a quorum of three justices, of whom one may be a judge of the Queen's Bench sitting under the provisions of S. 14 of the Act, which deals with instances in which a justice of appeal is not available. Occasionally the full court of seven justices sits on a special case.

### B. Geographic Distribution

The Court of Appeal sits at Regina and at Saskatoon. The seven puisne justices and two supernumerary justices reside in Regina, where the Court sits on a regular basis. The Court sits in Saskatoon as required.

According to the Act, the Court may hear, at the judicial centre of Saskatoon, any application or motion incidental to:

- an appeal in respect of an action tried at a northern centre;
- an appeal in respect of an application or motion heard at a northern centre;
- an appeal entered for hearing at a sitting of the Court at the judicial centre of Saskatoon.

"Northern centre" in this context means the judicial centres of Battleford, Humboldt, Kerrobert, Melfort, Prince Albert and Saskatoon and places nearest to these judicial centres.

### C. Jurisdiction of Justices

The justices of the Court of Appeal are also ex officio judges of the Court of Queen's Bench but preside over criminal trials only when requested to do so by the Chief Justice of the Court of Queen's Bench.

The Court of Appeal replaced the Supreme Court of Saskatchewan en banc in 1918 and may hear appeals from:

- any judgement, order or decree made by the Court of Queen's Bench;

- judgements from Provincial Court on indictable offences;
- an opinion from the Court of Queen's Bench on matters referred by the Lieutenant Governor in Council under the Constitutional Questions Act;
- decisions of the Court of Queen's Bench concerning prerogative writs; and
- decisions of the Unified Family Court.

Cases which are heard by right in the Court of Appeal include:

- civil cases on questions of law or mixed fact and law; and
- criminal cases on questions of law alone.

Cases which will be heard with leave of the Court include:

- civil matters involving provincial statutes;
- criminal cases on questions of mixed fact and law; and
- criminal cases on questions related to sentences.

The judges of the Court have the power to make rules as to practice before the Court, the duties of officers therein, tariff of fees and costs of barristers and solicitors, and matters affecting the administration of justice within the Court in general.

### Jurisdiction of Judge in Chambers

A single judge in chambers may hear and dispose of any application or motion incidental to any cause or matter before the Court, so far as it does not involve the decision of the appeal. Any such interlocutory order made or motion granted may be discharged or varied by the Court.

### D. Jurisdiction and Duties of the Registrar

The Court of Appeal Act provides for the appointment of a registrar and taxing officer. Any court presided over by a single judge of the Court of Appeal may also appoint a registrar. There may also be a deputy registrar and deputy taxing officer at each judicial centre. Similarly, any official of the Court of Queen's Bench may be declared to be ex officio registrar and taxing officer of the Court of Appeal or deputy registrar or taxing officer for a judicial centre.

The duties of the Registrar of the Court of Appeal include the provision of information to local registrars on applications to the courts, rules of court, court procedure and policy matters. In



addition the Registrar of the Court of Appeal also exercises the jurisdiction and duties of the Registrar of Bankruptcies.

## II. COURT OF QUEEN'S BENCH

### A. Composition of the Court

The Court of Queen's Bench is the superior court of record for Saskatchewan and is established by the Queen's Bench Act, R.S.S. 1978. The Court consists of the Chief Justice and 29 other judges, as well as three supernumerary judges. These judges are appointed federally and the Lieutenant Governor may at any time by proclamation increase or decrease the number of judges of the Court.

### B. Geographic Distribution

The Court of Queen's Bench sits in 18 judicial centres with permanent registries. Section 7.1 of the Act provides that the Lieutenant Governor in Council may direct that a judge reside at a specific centre, thus ensuring that at least one judge resides at or near each of Battleford, Estevan, Moose Jaw, Prince Albert, Regina, Saskatoon, Swift Current, Yorkton, Humbolt and Melville. In addition, there is one circuit court location in which criminal jury cases are heard.

### C. Jurisdiction of Judges

The judges of this Court are endowed with a wide criminal and civil jurisdiction. They are ex officio coroners, justices of the peace and judges of the Provincial Court of Saskatchewan as well as judges of the Surrogate Court. The Court of Queen's Bench is a court of original jurisdiction and has, in addition to other powers, those vested in and exercised prior to 1873 by the English courts of Chancery, Queen's Bench, Common Pleas, Exchequer and Probate. The Court retains all of the jurisdiction inherent in the former Supreme Court and District Court of Saskatchewan (the District Court merged with the Queen's Bench in July, 1981).

#### Civil Jurisdiction

Civil jurisdiction is unlimited as to type or amount. The Court exercises exclusive jurisdiction over certain civil matters specified in federal and provincial statutes. When sitting as the Surrogate Court, the Court hears matters relating to testamentary dispositions such as wills, letters probate and letters of administration.

The Court of Queen's Bench hears appeals on civil matters from the Small Claims Court (Provincial Court) and the Family Court (Provincial Court).

#### Criminal Jurisdiction

The Court has unlimited jurisdiction over all criminal cases and exclusive jurisdiction over indictable offences under S. 427 of the Criminal Code. These offences require a trial by judge and jury. In addition, the Court has exclusive jurisdiction over indictable offences under the Combines Investigation Act (Canada), which are heard by a judge alone.

The Court hears appeals from summary conviction offences originating in the Provincial Court.

#### Family Jurisdiction

The Court of Queen's Bench has jurisdiction over:

- matters arising under the Divorce Act (Canada);
- adoptions under the Family Services Act, a provincial statute;
- matters arising under the Infants Act relating to custody of, access to, or guardianship of children;
- dissolution and nullification of marriage;
- judicial separation;
- alimony (pre-divorce) and maintenance (post-divorce);
- matrimonial property; and
- appeals of family cases heard in the Provincial Court.

In Saskatoon, the Unified Family Court, under the Unified Family Court Act, S.S. 1981, can hear, in addition to the above, matters under the Deserted Spouses and Children's Maintenance Act, the Children of Unmarried Parents Act and the Family Services Act, and has such jurisdiction as may be conferred on it by any other act, and retains the *parens patriae* powers of the Court of Queen's Bench.

Cases under the Young Offenders Act heard in the Provincial Court may be appealed to the Court of Queen's Bench with leave of the Court.

The Court of Queen's Bench has concurrent jurisdiction with the Court of Appeal over applications for prerogative writs.

#### Chambers Jurisdiction

A judge of the Court of Appeal or a judge of the Queen's Bench shall sit in chambers upon certain

designated days, with the local registrar of the Court acting as chamber clerk. If a judge sitting in chambers announces that he/she is sitting in court, he/she shall have all of the powers and incidents of the said Court. Any such chambers decision is subject to appeal to the Court of Appeal.

Decisions of the Court of Queen's Bench in both criminal and civil cases may be appealed to the Saskatchewan Court of Appeal as permitted by statute and law.

#### **D. Jurisdiction and Duties of the Registrar**

The Queen's Bench Act provides for the appointment of an officer of the Court to be known as the Registrar of the Court of Queen's Bench. The Registrar is to have office in Regina and shall perform duties in accordance with the prevailing statutes and rules of the Court. Local registrars and deputy local registrars are appointed pursuant to the Court Officials Act.

The local registrars are responsible for the Court offices and records in their judicial centres. They maintain the registries in such centres, act as chambers clerks and coordinate chambers applications with the Registrar at Regina.

The Court Officials Act provides that it shall be the duty of every local registrar of the Court of Queen's Bench to:

- receive all papers required to be filed in Court;
- issue all statements of claims, warrants, writs of execution and other documents necessary for the disposition of such matters, and to file all papers in actions in the office of the Court;
- tax costs, enter judgements and record all judgements and orders pronounced;
- keep a record of all accounts and fines, fees and monies payable or paid into court, to keep the books associated with these matters and to make them available to the public;
- deposit in a chartered bank in a prescribed manner all monies paid into court; and
- attend all sittings of the judge in chambers unless not required to do so by the judge.

In addition, the local registrars:

- sign documents including orders, default and interlocutory judgements, mortgage foreclosures as well as judgements resulting from decisions of the Court;
- act as official examiners;
- execute conveyances, transfers or mortgages ordered by the Court;

- release garnishing orders;
- issue subpoenas to debtors;
- settle orders;
- grant leave to renew an originating notice for a further period;
- administer oaths;
- take affidavits and statutory declarations;
- receive affirmations; and
- supervise persons employed in the court registry.

### **III. PROVINCIAL COURT**

#### **A. Composition of the Court**

The Provincial Court of Saskatchewan is established by the Provincial Court Act, R.S.S. 1978. It is a court of record of limited jurisdiction made up of three divisions: Small Claims, Family and Youth, and Criminal. In addition, the Traffic Safety Court of Saskatchewan Act, 1977 provides for two Traffic Safety Courts presided over by justices of the peace.

The Provincial Court consists of a Chief Judge and 44 Provincial Court judges. These judges are appointed provincially by the Lieutenant Governor in Council. Saskatchewan also employs 497 civilian justices of the peace on a fee-for-service basis. All judicial officers are appointed as justices of the peace.

#### **B. Geographic Distribution**

The Provincial Court sits in 16 judicial centres with resident judiciary, and visits 87 other locations on circuit.

There are six Provincial Court locations which share the same facilities with the Court of Queen's Bench. Both courts share common supervisors and the staff at each location share the workload.

#### **C. Jurisdiction of Judges**

The Court exercises both civil and criminal jurisdiction.

##### **Civil Jurisdiction**

The civil jurisdiction of the Provincial Court is found in the Small Claims Enforcement Act R.S.S. 1978 and its attendant regulations. The Act specifies certain restrictions, both monetary and subject matter.

Monetarily, the Court is limited to hearing actions in which the amount in dispute does not exceed \$3,000



for both individuals and corporations (the Small Claims Amendment Act, February 1984).

Respecting subject matters, the Act applies to claims and demands for debt, damages or recovery of goods and chattels. It does not apply to any matter in which the title to land is in question, nor to testamentary matters, malicious prosecution, malicious arrest, false imprisonment, libel, slander, seduction, breach of promise of marriage, or actions against magistrates or justices of the peace for acts done in the course of their office.

Appeals from the Small Claims Court may be taken to the Court of Queen's Bench at the nearest judicial centre. Such appeals take the form of a trial *de novo*. Further appeal to the Court of Appeal is possible. However, when the amount in question is less than \$200, leave of a judge of the Court of Appeal is required.

#### Family and Youth Jurisdiction

The Provincial Court is a Youth Court within the meaning of the Young Offenders Act (Canada), and hears matters respecting children arising under Part 1 of the Family Services Act, R.S.S. 1978, and matters under certain sections of the Provincial Court Act, R.S.S. 1978.

In these areas, the Provincial Court hears matters relating to support and maintenance, paternity, the welfare of children, young offenders, and intra-family Criminal Code offences.

The judges of the Provincial Court exercise jurisdiction in matters and proceedings arising under:

- the Deserted Spouses and Children's Maintenance Act, R.S.S. 1978 (S. 2 defines "court" as one presided over by a judge of the Provincial Court of Saskatchewan);
- the Children of Unmarried Parents Act, R.S.S. 1978 (all matters under this Act are heard in Provincial Court except for those under S. 8 which must be heard before a justice of the Court of Queen's Bench);
- Parts I and II of the Family Services Act, R.S.S. 1978 (S. 3 and S. 42 provide that "judge" means a judge of the Provincial Court);
- the Marriage Act, R.S.S. 1978 (provides for a hearing by the Court of Queen's Bench in certain instances, including the solemnization of marriage and the formalities attendant upon the marriage ceremony, but in general, matters under the Act are held in Provincial Court); and

- the Parent's Maintenance Act, R.S.S. 1981 (concerning suits against adult children for maintenance of their parents and providing for a hearing by provincial judge or two justices of the peace).

#### Criminal Jurisdiction

The Provincial Court has general jurisdiction in matters arising under S. 483 and S. 484 and Part XXIV (summary convictions) of the Criminal Code of Canada. In addition, certain indictable offences are within absolute jurisdiction of the Provincial Court. Other indictable offences may be heard by the Provincial Court or Court of Queen's Bench depending on the election of the accused. Offences listed in S. 427 are the exclusive jurisdiction of the Court of Queen's Bench and may only be heard in that Court. In any case, preliminary inquiries are generally held in the Provincial Court. Although the Attorney General of Saskatchewan may proceed by direct indictment into the Queen's Bench, this is a procedure that is rarely invoked.

The Traffic Safety Court is constituted by the Traffic Safety Court of Saskatchewan Act, R.S.S. 1978. It is located at Regina and Saskatoon, and is presided over by four "traffic justices" appointed provincially as justices of the peace. These justices are lay personnel with law enforcement backgrounds. They are assisted by a safety officer who administers a short program of safety improvement for those drivers directed to them from the Court. This Court deals with violations of the Administration Act 1986, certain sections of the Highway Traffic Act 1986, and the Motor Carrier Act 1986, relating to weight of vehicles and loads, moving violations, and bylaws of urban and rural municipalities. Parking infractions are not dealt with in this Court.

Separate by-law courts have been established in Regina and Saskatoon, presided over by justices of the peace with extensive knowledge of court procedures. These justices are designated by the Chief Judge of the Provincial Court and hear guilty and not guilty pleas on most city by-laws (excluding zoning and building).

Appeals from the Provincial Court on indictable offences or matters of contempt of court are heard by the Court of Appeal. Appeals from the Traffic Safety Court and By-law Court are heard by a Provincial Court judge designated by the Chief Judge and are by way of a trial *de novo*, and thereafter to the Court of Queen's Bench only.

## D. Jurisdiction and Duties of the Clerk

Generally, the Court Officials Act, R.S.S. 1978 provides for the appointment of such registrars, clerks or deputy registrars and clerks of any court deemed necessary for the prompt and effective administration of justice within Saskatchewan.

Administratively, these officials are referred to as judicial officers. In the Provincial Court where they assume the position of clerk of the court, they are responsible for the following functions:

- assuring availability of judges and courtrooms for trials, special and preliminary hearings;
- supervision of court registry staff and ensuring that instructions relating to administrative matters are carried out efficiently and expediently (in the larger centres of Regina, Saskatoon, Prince Albert and Yorkton there are supervisory judicial officers to overlook these duties);
- ensuring care, maintenance and control of government vehicles when directed by the Director of Court Operations; and
- maintaining liaison with other court offices, the legal profession, central administration and various police forces to ensure smooth operation of all court functions.

In addition, these officials are justices of the peace and conduct court sittings on behalf of the judge in emergency situations or when directed to do so by the Chief Judge of the Provincial Court.

In the Small Claims division, the clerk may issue subpoenas, sign memoranda of judgement, sign certificates of judgement and/or adjourn any matter or cause as permitted by the Small Claims Enforcement Act.

### Officers of Justice

Pursuant to the Provincial Court Act, it is the responsibility of the Chief Judge of the Provincial Court to direct and supervise the duties and sittings of the justices of the peace and to administer the payment of their accounts. This is done through a supervising justice of the peace.

The civilian justices of the peace who operate on a fee-for-service basis may only hear guilty pleas and determine penalties in summary offences, adjourn not guilty pleas, remand or release prisoners, hold show cause hearings, determine bail, issue search warrants, order the detention of seized property, swear informations, and issue summonses and

warrants. These powers of the justices of the peace are governed by provisions in the Criminal Code of Canada. Some justices of the peace are also appointed as marriage commissioners and are empowered to perform civil marriages.

## IV. COURT SERVICES

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### Organization of Court Services

Two divisions of the Department of Justice provide services to the Courts in Saskatchewan.

The Court Services Division consists of three main branches: Administrative Support, Court Operations and Sheriff Services. The Department also provides for the Provincial Court judges.

The Management Services Division provides central support services such as Administrative Services, Systems, Human Resources, and Policy Planning and Evaluation to all divisions of the Department including the Court Services Division.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department and the Court Services Division.

## COURT SERVICES DIVISION

### Court Operations Branch

Reporting to the Executive Director of Court Services, the Director of Court Operations Branch provides administrative support to the Court of Appeal, Court of Queen's Bench and the Provincial Court.

### Court Administration

The court administration functions are carried out under the supervision of the local registrars and clerks of the court. These include:

- receiving and processing legal documents including notices, warrants for arrest, and orders of the court;
- ensuring that all filings in the court are in accordance with procedural requirements;
- storing and retrieving court documents;
- trial scheduling and coordinating trial participants;
- paying jury fees;



- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust;
- receiving, storing, maintenance, and release of court exhibits;
- preparing interim and final court orders;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, record pertinent information about proceedings and disposition of cases, and when required, operate court recording equipment;
- completing forms and compiling data for statistical analysis;
- providing information to the general public and to lawyers on procedural requirements;
- administering youth document records (access and destruction);
- making arrangements for circuit court sittings including managing transportation needs, arranging for court facilities and arranging accommodations; and
- providing information necessary for the operation of other related services.

Through the Assistant Director of Court Operations, head office administration is provided for commissioners of oaths, notaries public and marriage commissioners. Supervision of justices of the peace is provided in the form of appointments, terminations, and provision of supplies and advice.

In addition, the Court Operations Branch provides the justices of the Court of Appeal and Court of Queen's Bench with offices, furniture, clerical and stenographic staff, and office equipment.

### Court Reporting

Through a combination of electronic recording equipment, private sector court reporting firms and private sector transcript production, all criminal proceedings in Saskatchewan are now recorded with electronic recording devices. The court clerk is currently responsible for monitoring trial proceedings, maintenance of recording equipment, storage of tapes and forwarding tapes for transcript production as required.

In the Court of Appeal, Court of Queen's Bench and Provincial Court, all proceedings are recorded on electronic recording equipment. The one exception is for civil jury trials and civil trials where lawyers arrange for private sector court reporters at their expense. If a transcript of the proceeding is required, the tape or tapes of the proceeding are forwarded to a central transcript unit which then allocates the production of that transcript to a private sector

firm. Once the transcript is completed it is filed at the appropriate judicial centre.

Examinations for Discovery throughout the province are performed by private sector court reporting firms. The transcripts of the examination are the responsibility of the attending court reporter and are produced upon request.

### Administrative Support Branch

Reporting to the Executive Director of the Court Services Division, the Director of the Administrative Support Branch provides administrative support to the Court Services Division. Specific program activities include:

- the preparation, planning and allocation of budget resources for the Court Services Division to ensure that appropriate funding is provided;
- controlling all expenditures for the Division to ensure that resources are being utilized appropriately, including the preparation of monthly expenditure forecasts for all branches of the Division;
- performing all functions related to personnel administration in the Court Services Division in order to optimize the use of resources;
- monitoring the accounting function of the Division to ensure that Treasury Board Regulations are adhered to;
- drafting and revising forms and organization charts for the Division;
- preparing annual report material, collective bargaining renegotiation material, Treasury Board submissions, Committee of Finance material and manuals for the Division;
- measuring the efficiency of administrative procedures and processes and initiating improvements to better meet program objectives;
- collecting statistical information from the branches and development and assessment of performance measurement standards;
- reviewing relevant legislation for the Division; and
- establishing policies and implementing controls to regulate purchasing, allocation, repairs and disposal of equipment.

The Administrative Support Branch is responsible for the Maintenance Enforcement Office which registers court orders for child or spousal support or maintenance, monitors payment activity on registered accounts, and takes enforcement action such as garnishment or seizure of assets when payments are not made.

In addition, the Administrative Support Branch is responsible for the operation of the Provincial Court Management Information System (P.C.M.I.S.) which processes all summonses from provincial statute violations and the voluntary payments received for such offences.

### **Sheriff Services Branch**

The authority for the appointment of sheriffs, deputy sheriffs and bailiffs lies in the Court Officials Act 1984. Pursuant to S. 2 of the Criminal Code, the sheriff is a peace officer and in Saskatchewan, has province-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is a marshal or deputy marshal of the Federal Court in admiralty causes.

The Sheriff Services Branch performs a number of services related to both criminal and civil case processing, and court operations in the Court of Queen's Bench including:

- the service of documents
  - sheriffs serve or provide for the service of civil and family related documents; and
  - service of documents for other government ministries;
- court security
  - in all jury trials in the Court of Queen's Bench (in judicial centres outside of Regina and Saskatoon, court security is also provided by the police detachments as required);
  - in certain Court of Appeal hearings as required;
  - in Provincial Court, by deputy sheriffs in Regina and Saskatoon and by the police detachments in all other locations;
- jury management
  - summon and provide comforts for juries;
  - prepare attendance lists; and
  - seclude and guard juries;
- escorts
  - accused or convicted prisoners within courthouse; and
  - witnesses when ordered by court or when in custody;

- executions
  - writs of seizure and sale;
  - writs of fieri facias;
  - writs of possession;
  - writs of replevin;
  - warrants to put down resistance and deliver possession;
  - sheriff sales;
  - seizures under the Garage Keepers Lien Act;
  - arrests on civil warrants of committal; and
  - evictions.
- prisoner holding
  - supervise holding unit in courthouse; and
  - provide food for persons in custody while in holding unit awaiting court proceedings.

In addition the Sheriff Services Branch is responsible for the investigation of debtors and property evaluation to determine equity of debtors, revenue collection at the local level, trust money collection and distribution, the transportation and accommodation for out of town judges, and arrest upon the order of a judge.

In Saskatoon and Regina there are separate sheriff operations. Elsewhere, the senior judicial officers act as deputy sheriffs.

### **MANAGEMENT SERVICES DIVISION**

Through the Executive Director, Management Services Division, four branches provide a variety of support services to all divisions and agencies of the Department of Justice including the Court Services Division.

The Administrative Services Branch provides central financial, audit and administrative functions as well as data entry, central file and mail services.

The Human Resources Branch activities include:

- staffing procedures such as advertising, reviews, and interviews;
- monitoring changes and problems associated with classification and salary administration;
- staff training and development (programs and policies);
- payroll;

- administering and reviewing staff programs; and
- administering employee records and position control.

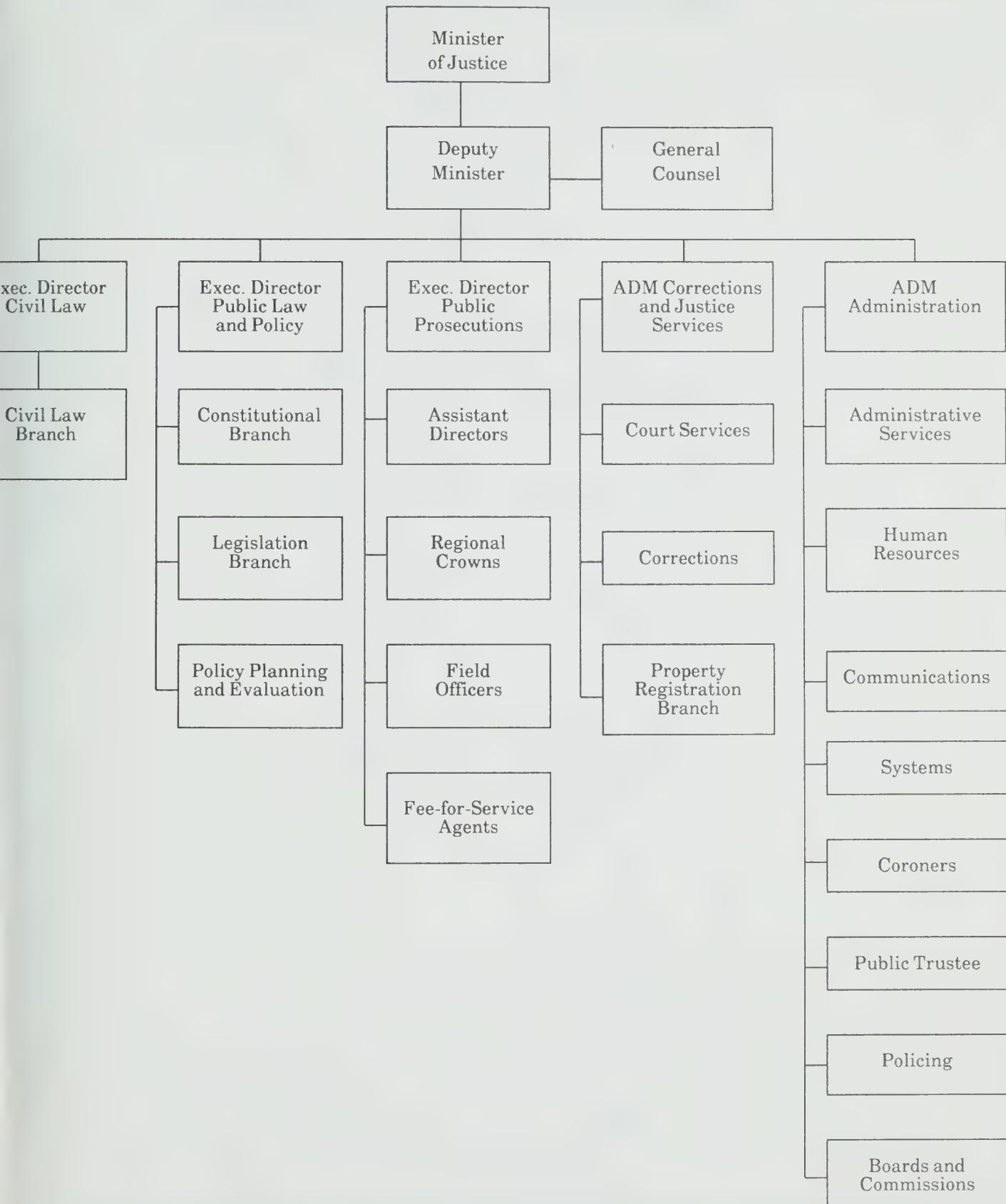
In addition, general personnel administration functions (ie. statistical reports) are carried out in this Division.

The Systems Services Branch employs analytical and technical expertise concerning the development and operation of systems within the branches of the

Department of Justice. It also coordinates system activities with outside agencies and develops and controls the departmental system budget.

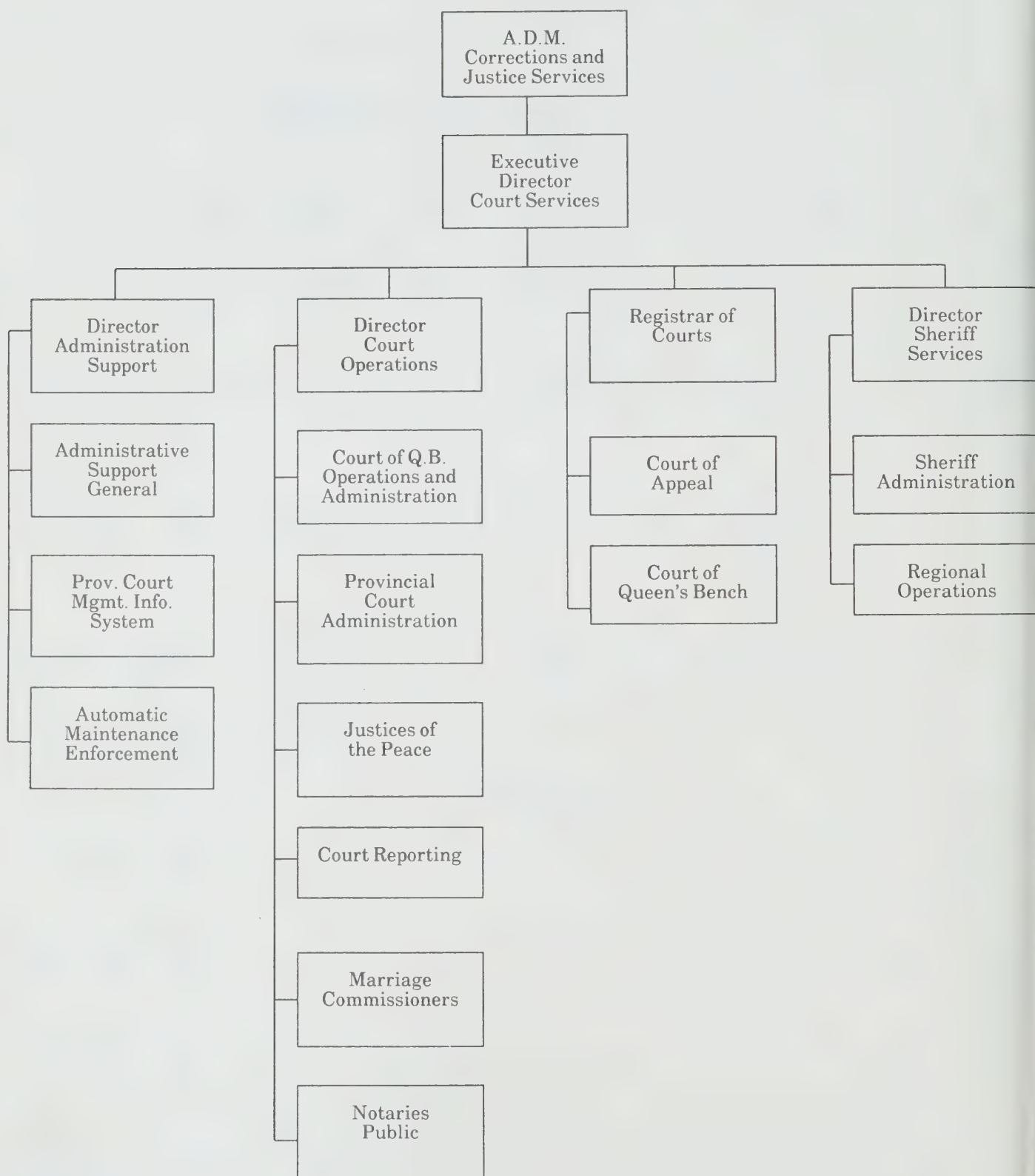
The Policy, Planning and Evaluation Branch activities include central policy development, development and maintenance of a departmental planning framework and cycle, monitoring and evaluation of existing programs, and conducting research into questions of significance. This Branch also provides support services related to the provision of information and library services to the Department and acts as liaison with federal agencies.

# DEPARTMENT OF JUSTICE, SASKATCHEWAN

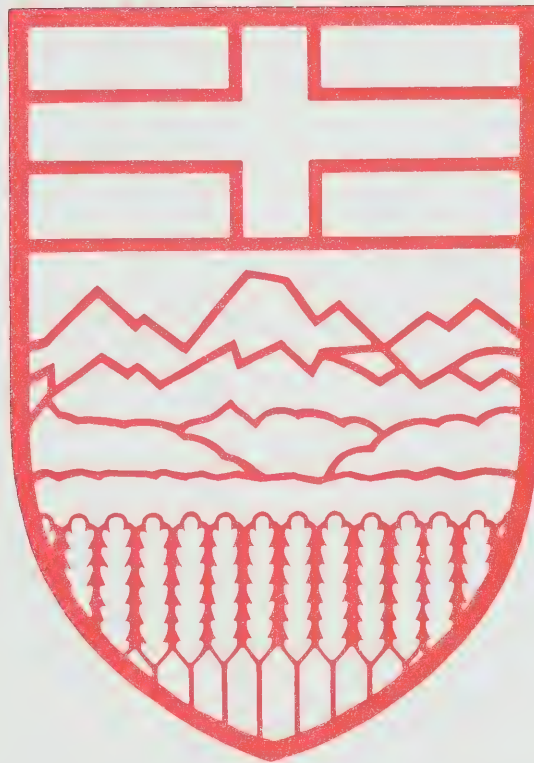




## COURTS SERVICES DIVISION, SASKATCHEWAN



# Alberta





## **I. COURT OF APPEAL**

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### **A. Composition of the Court**

This Court is established by the Court of Appeal Act R.S.A. 1980. The Court of Appeal consists of the Chief Justice of Alberta and 10 other justices who are appointed federally by the Governor in Council. Additionally, there are four supernumerary justices.

The Court generally sits with a quorum of three justices and may sit with one or more divisions of three justices. On the request of a justice of the Court of Appeal, a judge of the Court of Queen's Bench may sit or act in place of a judge who is absent, or as an additional judge.

### **B. Geographic Distribution**

The Court of Appeal sits on a regular basis in Edmonton and Calgary. All justices of the Court reside at or in the neighbourhood of Edmonton or Calgary.

### **C. Jurisdiction of Justices**

The Court of Appeal of Alberta has appellate jurisdiction in all civil and criminal matters, and jurisdiction to hear and determine motions and appeals respecting any judgement, order or decision of any judge of the courts.

### **D. Jurisdiction and Duties of the Registrar**

The Registrar and other court officers are appointed in accordance with the Public Service Act. They have power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses as the Court may direct.

## **II. COURT OF QUEEN'S BENCH**

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### **A. Composition of the Court**

This Court is established by the Court of Queen's Bench Act, R.S.A. 1980. The Court of Queen's Bench of Alberta consists of the Chief Justice, the Associate Chief Justice and 54 other justices who are appointed federally by the Governor in Council. Additionally, there are five supernumerary judges.

### **B. Geographic Distribution**

The Court of Queen's Bench sits on a regular basis in 12 locations and on circuit in five locations. To hear cases, judges travel from one of four locations: Calgary, Edmonton, Lethbridge and Red Deer.

### **C. Jurisdiction of Justices**

The Court of Queen's Bench of Alberta is a superior court of civil and criminal jurisdiction. It has original jurisdiction in all matters unless otherwise indicated by statute.

### **D. Jurisdiction and Duties of Masters & Clerks**

Masters in chambers are appointed by the Lieutenant Governor in Council. There are seven masters in chambers and they have the same power and may exercise the same jurisdiction as a judge sitting in chambers with the following exceptions:

- appeals, applications in the nature of appeals, applications concerning the hearing of appeals and applications to vary or rescind an order made by a judge;
- stays of proceedings after verdict or on judgement after trial or hearing before a judge, unless all parties consent to the exercise of that jurisdiction by the master;
- hearing, determining and disposing of all applications and other matters, unless all partners consent to the exercise of that jurisdiction by the master;
- the trials of actions;
- the determination of disputed or contentious questions of fact unless the parties agree to the disposition of the questions summarily in chambers on affidavit evidence and without the trial of an issue or the hearing of oral evidence;
- any matters relating to criminal proceedings on the liberty of the subject;
- applications relating to civil contempt or for an injunction or a judgement or order in the nature of certiorari, prohibition, mandamus or quo warrants; or
- anything which by law is required to be done by a judge.

Clerks and other officers of the Court of Queen's Bench are appointed in accordance with the Public Service Act, and have the power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct.

## **III. SURROGATE COURT**

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### **A. Composition of the Court**

This Court is established by the Surrogate Court Act, R.S.A. 1980. The Chief Justice and other judges of the Court of Queen's Bench are the Chief Justice and judges respectively of the Surrogate Court of Alberta.



## **B. Geographic Distribution**

The Surrogate Court sits in the same locations as the Court of Queen's Bench of Alberta.

## **C. Jurisdiction of Justices**

Section 9 of the Surrogate Court Act gives the Surrogate Court jurisdiction and authority in relation to testamentary matters and causes, the issuing or revoking of grants of probate, and administration and all matters arising out of or connected with the issue or revocation of grants of probate and administration.

With respect to all matters within its jurisdiction, the Court and the judges and officers thereof respectively have and may exercise all the powers of the Court of Queen's Bench and of the judges and officers thereof.

Nothing in the Surrogate Court Act affects the jurisdiction of the Court of Queen's Bench in matters within the jurisdiction stated above.

## **D. Jurisdiction and Duties of the Clerks**

In each judicial district, the Clerk of the Court of Queen's Bench is the Clerk of the Surrogate Court, and performs all the duties with respect to the Surrogate Court that the Clerk of the Court of Queen's Bench is required to perform.

The Clerk of the Court is required to:

- file and preserve all original wills of which probate or administration with the will annexed are granted, and all other papers used in matters in the Court in his/her judicial district, subject to the Rules; and
- on payment of the fee prescribed by the Rules, issue official copies of the whole or any part of a will of which probate or administration with the will annexed is granted, or grants of probate or administration.

The office of the Clerk of the Court of Queen's Bench is a depository for the wills of living persons given for safekeeping and the Clerk must receive, keep and return them in accordance with and subject to the Rules.

# **IV. PROVINCIAL COURT**

## **A. Composition of the Court**

This Court is established by the Provincial Court

Act, R.S.A. 1980. There are four Divisions of the Court: Criminal, Family, Small Claims and Youth.

Judges of the Provincial Court are appointed provincially by the Lieutenant Governor in Council. In addition to the Chief Judge and eight Assistant Chief Judges, there are 102 permanent judges of the Provincial Court, and two supernumerary judges.

## **B. Geographic Distribution**

The Court may sit at any place in the province for the orderly dispatch of the business of the Court. At the present time, there are 24 permanent and 76 circuit locations where the Provincial Court (Criminal Division) sits, and 23 permanent and 64 circuit locations where the Provincial Court (Family and Youth Divisions) sits. The Small Claims Division sits at most of the same locations as the Criminal Division.

## **C. Jurisdiction of Judges**

The Provincial Court is a court of record, and the Court and every judge have jurisdiction throughout the province to exercise all the power and perform all duties conferred or imposed on a judge of the Provincial Court, a magistrate, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.

## **Small Claims Jurisdiction**

The Small Claims Court has jurisdiction to try and adjudicate any claim (including a counterclaim)

- for debt (whether payable in money or otherwise) if the amount claimed does not exceed \$2000 exclusive of interest payable under an Act or by agreement on the amount claimed; and
- for damages (including damages for breach of contract) if the amount claimed does not exceed \$2000 exclusive of interest payable under an Act or by agreement on the amount claimed.

If it appears that the claim of a plaintiff or the counterclaim of a defendant is in excess of the amount prescribed above, the plaintiff or the defendant may abandon the part of the claim in excess of the jurisdiction of the Court by filing a notice to that effect with the Court. In that event, the person forfeits the excess and is not entitled to recover it in any other action in the Provincial Court or any other court.

The Court does not have jurisdiction to hear or adjudicate on a claim or counter claim:

- in which the title to land is brought into question;
- in which the validity of any devise, bequest or limitation is disputed;
- for malicious prosecution, false imprisonment, defamation, criminal conversation, seduction or breach of promise of marriage;
- in replevin;
- against a judge, justice of the peace or peace officer for any thing done while executing the duties of office; or
- by a local authority or school board for the recovery of taxes, other than taxes imposed in respect of the occupancy of or an interest in land that is itself exempt from taxation.

The Court has jurisdiction in all small claims where the amount claimed does not exceed \$2,000, except for those cases listed above.

#### Youth Jurisdiction

The Court is a Youth Court within the meaning of and for the purposes of the Young Offenders Act (Alberta) and the Young Offenders Act (Canada), and has all the powers vested in a Youth Court under those acts.

#### Family Matters

The Provincial Court may enforce Queen's Bench orders filed with it relating to alimony or maintenance; and may order interim maintenance or alimony payments when a person ordered to pay applies for a hearing adjournment.

The Court may make a consent order without holding a hearing if parties to an application agree respecting the matters in question and the terms of the order.

The Court may make a custody order regarding the custody of a child and the right of access to the child where there is a dispute as to custody or access and where the parents are living apart. The Court may also review, confirm, vary, or discharge such orders.

#### Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

#### D. Duties of the Clerks

Court Clerks are appointed in accordance with the Public Service Act and have the power to administer oaths, take affidavits and statutory declarations, receive affirmations and examine parties and witnesses, as the Court may direct. In addition to performing the duties prescribed under the Provincial Court Act or any other act, court clerks also perform those duties assigned to them by the Attorney General.

### V. COURT SERVICES

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#### Organization of Court Services

Two branches of the Department of the Attorney General of Alberta provide services to the courts.

The Court Services Branch provides staff who perform all local administrative, case processing, court reporting and sheriff services necessary to operate all of Alberta's courts.

The Administration Division of the Department of the Attorney General provides central financial, personnel, systems, auditing, communications, planning/research, and administrative services to all branches of the Department including the Court Services Branch.

In addition, the Maintenance Enforcement Branch, which commenced operation on February 1, 1986 provides for the enforcement of maintenance orders. This Branch is part of the Criminal Justice Division.

The organization charts at the end of this chapter indicate where Attorney General services are located within the overall structure of the Department of the Attorney General and the Court Services Branch.

#### COURT SERVICES BRANCH

The Court Services Branch provides administrative support including court reporters, justices of the peace, sheriff services and law libraries to all courts in the province. The Branch is divided into two major components; Central Services and Regional Operations.

##### Central Services

Located in Edmonton, Central Services is responsible for providing central administrative

support to all courts in the province. It consists of the following five functional units; operations unit, law libraries, systems unit, central court reporting and justice of the peace administration.

### Operations Unit

This unit is responsible for policy and procedural development, budget coordination and preparation, and central forms design and control.

### Law Libraries

This unit provides legal information services to counsel of the Alberta Attorney General, members of the Bench and Bar, and the public through acquisition and organization of legal materials. There are 72 libraries consisting of 16 Court of Queen's Bench libraries, 55 Provincial Court libraries and a departmental library with a collection of over 358,000 volumes.

### Systems Unit

This unit is responsible for identifying systems requirements for the courts, developing new systems, and monitoring ongoing systems operations.

For criminal cases in the Provincial Court, Court of Queen's Bench and Court of Appeal, the permanent locations are linked to an online Court Automation Project network (CAP). CAP is a case control and tracking system which produces operational, financial and caseload information.

The central computer is owned by the Alberta Government which charges the Department of the Attorney General for time used on the system. Software development and maintenance is contracted out to private firms.

In addition, an automated system (CASES - Civil and Sheriff Entry System) is in operation in Edmonton and Calgary and facilitates case tracking for all civil cases as well as sheriffs' operations.

### Central Court Reporting

This unit provides court reporters to all regional operations as needed. It consists of a pool of reporters who are dispatched to locations when a shortage of local court reporters arises. Additionally, it coordinates the development of policies and procedures relating to reporting and recording on a province-wide basis, and determines the type of equipment and systems to be used in the production of transcripts.

### Justice of the Peace Administration

This unit is responsible for processing appointments of justices of the peace and maintaining training materials for these appointees. Training for justices of the peace is provided centrally through the Personnel Services Branch.

### Regional Operations

The Regional Operations component of the Court Services Branch is responsible for the administration of local court operations. It consists of three functional areas: Court Administration, Sheriff Services, and Court Reporting and Recording Services.

#### Court Administration

In Alberta there are three regional directors who oversee all court operations within their respective regions (Edmonton Region, Calgary Region and Rural Region). In the Rural Region, the director is assisted by district managers who are assigned to each judicial district.

The three regional directors and their district managers participate in policy planning and development, prepare and manage budgets, and provide all the services in the court registries as well as providing clerks of the court. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses, warrants for arrest;
- storing and retrieving court documents;
- trial scheduling and coordinating trial participants including witness management;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing and maintaining court exhibits;
- preparing interim and final court orders;
- providing justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decisions made by the judge;



- completing forms and compiling data for statistical analysis; and
- updating records on the Court Automation Project in the Provincial Court.

### Sheriff Services

The authority for the appointment of the sheriffs and sheriff officers lies in the Public Service Act.

Sheriff Services performs a number of services related to both criminal and civil case processing and court operations, including:

- the service of civil documents;
- civil summonses and subpoenas, garnishing orders, petitions, notices and any other civil documents;
- jury management
  - summon, pay, provide comforts for juries;
  - prepare attendance lists; and
  - seclude and guard juries;
- executions
  - writs of seizure and sale and other writs of execution issued under Court of Queen's Bench Rules;
  - writs of fieri facias (federal courts);
  - sheriff sales (land);
  - orders of replevin; and
  - evictions;
- fatality inquiries
  - assist in selection and summoning of jurors.

In Alberta, court security is provided by police agencies in criminal matters. Court security officers in Edmonton and Calgary provide building security and are part of local administration.

### Court Reporting and Recording Services

Court recorders who record proceedings are full-time staff in the Court Services Branch. They attend all cases heard in the Provincial Court except most preliminary hearings and long trials. Reporters report all cases heard in the Court of Queen's Bench and report preliminary hearings and long trials in the Provincial Court. Reporters are paid a salary for their services and receive fees from both the Crown and counsel in private practice for the preparation of transcripts.

The responsibilities of the reporters and recorders include:

- setting up reporting/recording systems in the courtrooms and monitoring the recording onto tape during proceedings;
- maintaining a written log of participants and events during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription and playback; and
- preparing invoices and billings.

Transcripts are provided forthwith for all oral judgements given in the Court of Queen's Bench and are submitted to the judge. Transcripts are also automatically prepared for all preliminary inquiries and reciprocal maintenance hearings. Transcripts for Appeal Books must be available within six weeks for criminal appeals to the Court of Appeal, thirty days for criminal appeals to Court of Queen's Bench, and eight weeks for civil appeals. Daily transcripts are prepared on the same day as taken. All copies of Appeal Books are given to the party initiating the appeal.

## ADMINISTRATION DIVISION

Located in Edmonton, the Administration Division of the Department of the Attorney General provides central administrative support to the Department including the Court Services Branch. The Administration Division is composed of seven branches which include Financial Services, Internal Audit Branch, Administrative Services, Planning and Policy Coordination, Personnel Services, Systems and Information Services, and Communications Branch.

### Financial Services

This Branch provides a financial support and advisory service to the Department. Financial Services includes Financial Planning, Financial Operations and Financial Systems.

#### Financial Planning

This area is responsible for providing continuous financial analysis of departmental operations and for preparation and presentation of the annual budgets.



## Financial Operations

There are two operating units in this area which assist the Department in financial and central processing matters:

- Pay and Benefits coordinates commencements, terminations and changes in pay status for all departmental employees; and
- Revenue and Expenditures reports all departmental revenue collected by about 60 departmental operations throughout the province. The Expenditure unit processes all non-payroll costs.

## Financial Systems

The Financial Systems unit provides general financial advisory services to departmental managers and financial representation during the development of new or changing systems in the Department.

The Central Finance unit coordinates the collection and distribution of fines levied by the courts. The fines levied are distributed to more than 350 municipalities and to the federal and provincial governments.

## Internal Audit Branch

This Branch is concerned with the management control process and provides internal audit coverage of the Department. Management is advised of program effectiveness and efficiency through an independent, systematic appraisal of departmental activities.

## Administrative Services

This area provides a variety of administrative services including Special Services, Materials and Facilities, Micrographic Service, and Official Documents and Appointments.

### Special Services

Special Services is responsible for methods and procedural studies, the analysis and design of departmental forms and reports, maintenance of the forms management program and the operation of a reprographics unit.

### Materials and Facilities

This area provides a central purchasing and supply service, administration of all facility and

accommodation projects for the Department, and coordination of departmental word processing systems.

### Micrographic Services

This area provides microfilming, processing, editing and duplicating services to the Department through laboratories in Calgary and Edmonton.

### Official Documents and Appointments

This area serves two primary functions: processing appointments and maintaining current files on the province's 28,247 commissioners of oaths and 497 notaries public, and administering the Provincial Secretary's office.

## Planning and Policy Coordination

This Branch provides the Department and its managers with support in the analysis and management of information. This Branch is responsible for the development, implementation and administration of management support systems and the maintenance and access to research reports, studies and surveys. The director of the Branch currently fills the role for the Department of Liaison Officer to the Canadian Centre for Justice Statistics.

## Personnel Services

Personnel Services provides a full range of human resource services in the areas of recruitment and selection, classification, employee relations, staff development and personnel planning.

### Selection and Classification

The Selection and Classification section provides consulting services to managers in the areas of selection, classification, organization structure and position control.

### Employee Relations

Routine contract interpretation and provision of advice on disciplinary action is the major function of this area.

### Staff Development

This area provides departmental courses in a variety of programs. These courses include Managing Human Resources, Counter Skills, Supervision, Telephone Techniques, Job Description Preparation, Interpersonal Communications, Preparation for

Promotional Interviews, and Employee Relations. Specialized programming in the para-legal area continues to be delivered to employees of Court Services.

This area is also involved in the provision of organizational consulting services to various branches of the Department.

#### **Systems and Information Services**

This unit is responsible for the planning and development of electronic data and word processing systems throughout the Department.

#### **Communications Branch**

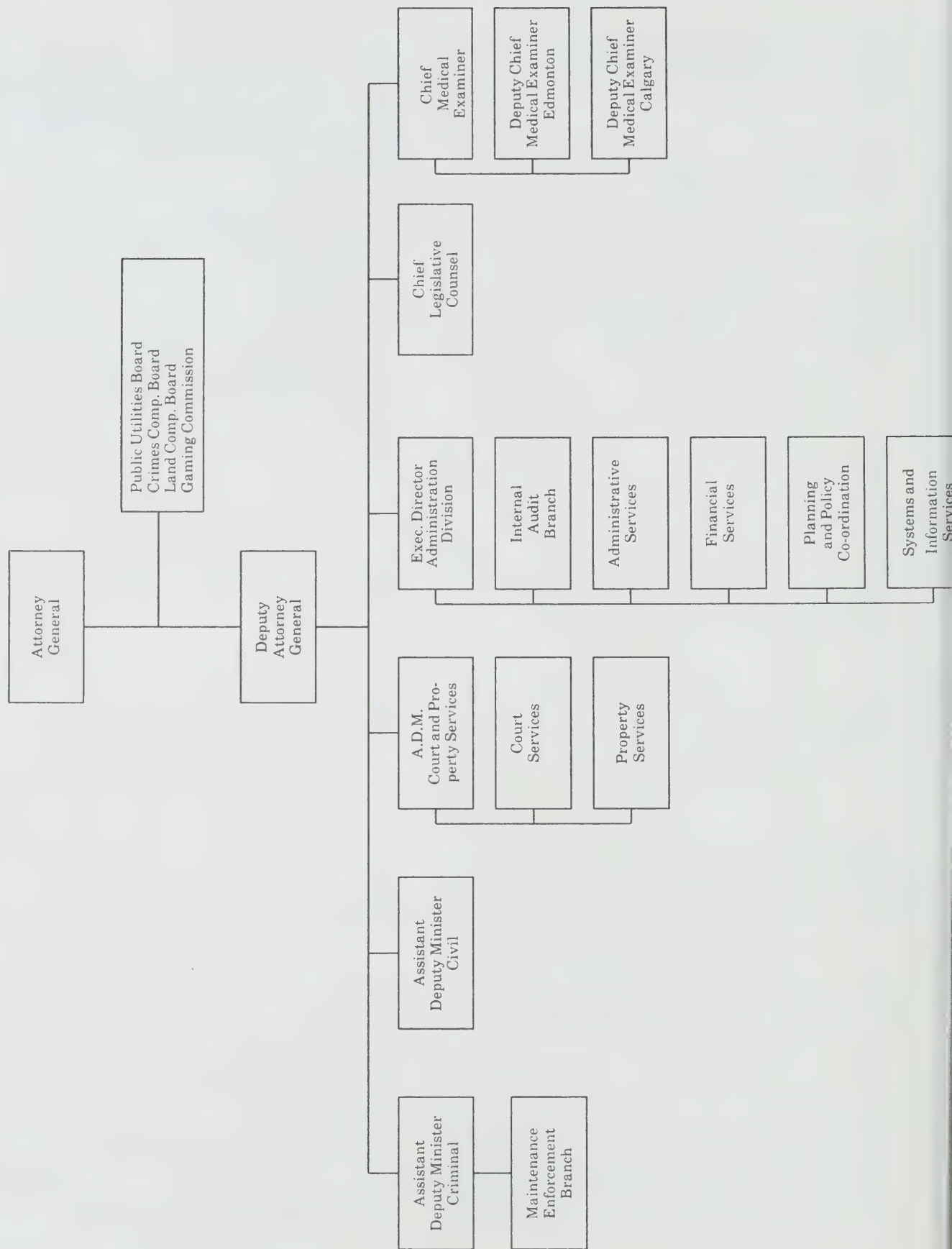
This Branch provides public relations consultation and communications services, including issues identification, media relations, coordination of displays and advertising, and production of printed material.

### **CRIMINAL JUSTICE DIVISION**

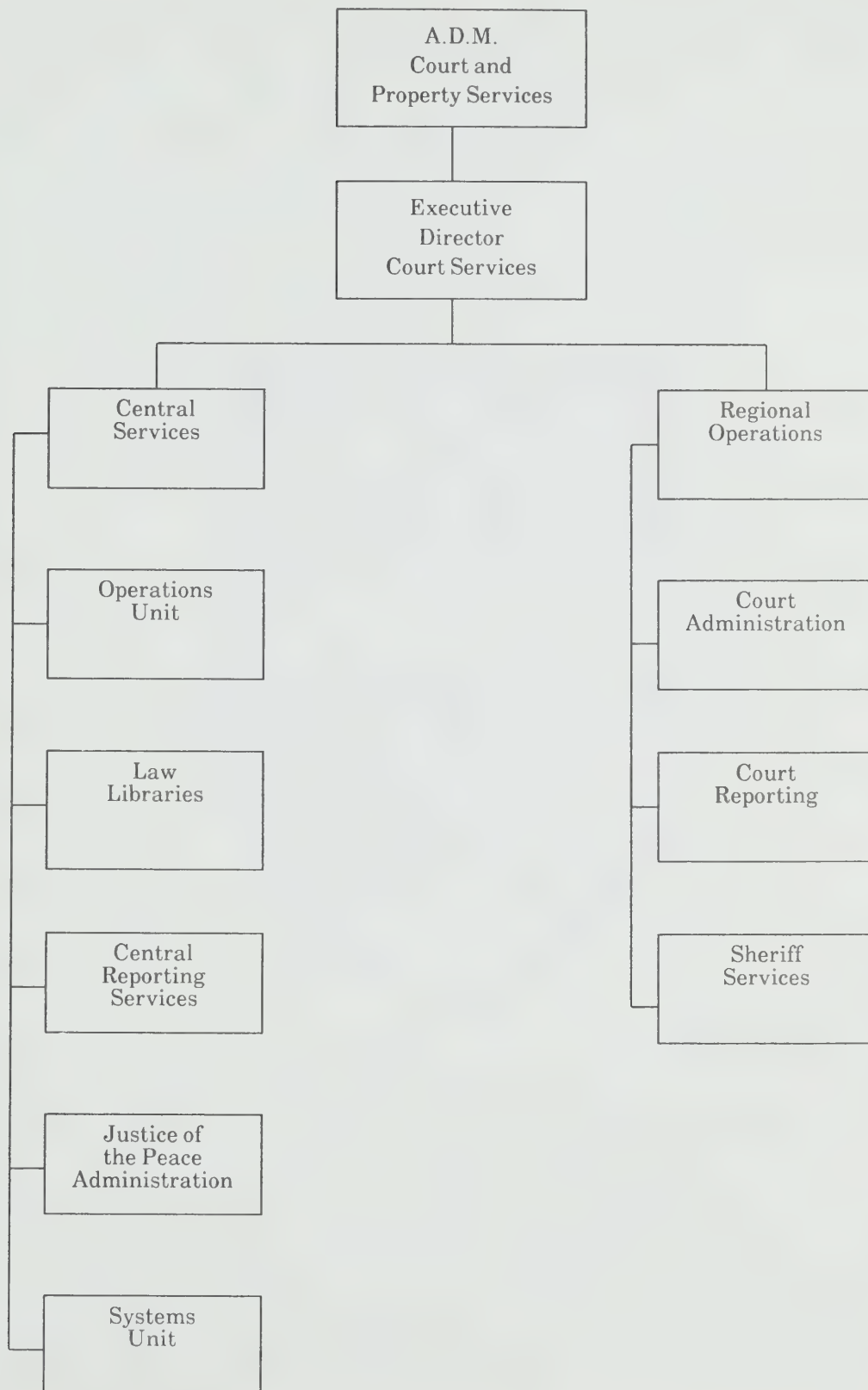
#### **Maintenance Enforcement Branch**

Under the Assistant Deputy Minister of the Criminal Justice Division, this Branch is responsible for the enforcement of maintenance orders or agreements registered with the program. The program commenced operation on February 1, 1986.

DEPARTMENT OF THE ATTORNEY GENERAL, ALBERTA



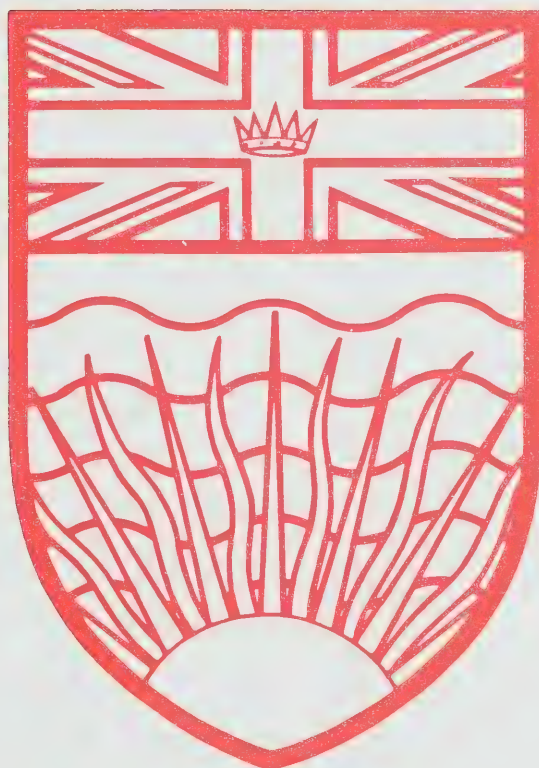
## COURT SERVICES BRANCH, ALBERTA







# British Columbia





## **I. COURT OF APPEAL**

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### **A. Composition of the Court**

This Court is established by the Court of Appeal Act S.B.C. 1982. The Court of Appeal consists of the Chief Justice of British Columbia and 11 other justices who are appointed federally by the Governor in Council. In addition, there are four supernumerary justices.

The Court generally sits with a quorum of three justices and on occasion with five. It may sit with one or more divisions of three justices. One justice may hear interlocutory matters in chambers.

### **B. Geographic Distribution**

All the justices reside in Vancouver. The Court sits on a regular basis in Vancouver, and for two to three weeks in the spring and three to four weeks in the fall in Victoria. Generally speaking, the Victoria Court hears cases originating from Vancouver Island, although it can hear cases originating from any location within the province.

### **C. Jurisdiction of Justices**

Section 6 sets out the jurisdiction of the Court. The Court may hear appeals from:

- an order of the Supreme Court or an order of a judge of that court;
- an order of a County Court or a judge of that court;
- an order of the Registrar of the Court of Appeal; and
- any matter where jurisdiction is given to it from the province or Canada such as judgements from the Provincial Court on indictable matters under the Criminal Code.

The Court also hears appeals from decisions of the Supreme Court of British Columbia under the Judicial Review Procedure Act, R.S.B.C. 1979.

The Court of Appeal may grant any relief to which an applicant may be entitled in any one or more of the proceedings for:

- relief in the nature of mandamus, prohibition, or certiorari; or
- a declaration or injunction or both, in relation to the exercise, refusal to exercise, or proposed or purported exercise of a statutory power.

The Court may also hear references from the Lieutenant Governor in Council on any matter under the Constitutional Questions Act, R.S.B.C. 1979.

### **D. Jurisdiction and Duties of the Registrar**

The Registrar of the Court of Appeal is an officer of the Court appointed under the Public Service Act. The extent of the Registrar's jurisdiction and duties is not defined in the Act. Generally, the Registrar has the same jurisdiction, duties and powers of a registrar of the Supreme Court and may, at the Court's direction, hold any inquiry, assessment, or accounting necessary to a case, and at the conclusion of any such hearing make a report and recommendations to the Court.

## **II. SUPREME COURT**

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### **A. Composition of the Court**

This Court is established by the Supreme Court Act, R.S.B.C. 1979. The Supreme Court of British Columbia consists of the Chief Justice of the Supreme Court and 34 puisne justices who are appointed federally by the Governor in Council. There are two supernumerary justices.

### **B. Geographic Distribution**

The Supreme Court sits continuously in Vancouver and Victoria and, in regular assizes, at least once a year in other judicial districts throughout the province.

There are eight judicial districts within which 18 court locations have permanent registries. While the justices are required to discharge their duties in the judicial districts assigned to them, any one or more of them may sit and act at any time in any judicial district. The Court does not sit in areas which do not have a registry. Vancouver is the only court location with resident judiciary.

### **C. Jurisdiction of Justices**

Section 8 generally sets out the jurisdiction of the Court. The Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the province, except those matters or cases expressly excluded by statute. It also acts as both a civil appellate and criminal appellate court.



## Civil Jurisdiction

Civil jurisdiction is unlimited as to the monetary amount involved, but cases generally deal with financial disputes over \$50,000.

Section 11 of the Supreme Court Act lists the civil matters over which the Supreme Court has exclusive jurisdiction. These include the following:

- the Supreme Court Act;
- the County Court Act;
- proceedings under the following additional provincial statutes:

Accountants (Chartered) Act;  
 Arbitration Act;  
 Architects Act;  
 Assessment Act;  
 Barristers and Solicitors Act;  
 Chiropractors Act;  
 Constitutional Questions Act;  
 Dental Technicians Act;  
 Dentists Act;  
 Elections Act;  
 Engineers Act;  
 Land Surveyors Act;  
 Medical Practitioners Act;  
 Municipal Act;  
 Naturopaths Act;  
 Notaries Act;  
 Nurses (Registered) Act;  
 Nurses (Registered Psychiatric) Act;  
 Optometrists Act;  
 Pharmacists Act;  
 Psychologists Act;  
 School Act; and  
 Vancouver Charter;

- trials under the following acts:

Family Compensation Act;  
 Frustrated Contract Act;  
 Insurance Act;  
 Insurance (Marine) Act;  
 Insurance (Motor Vehicle) Act;  
 Libel and Slander Act;  
 Occupiers Liability Act; and  
 Police Act;

- matters relating to habeas corpus, certiorari, prohibition, mandamus, or quo warranto; and
- all property matters under the Family Relations Act.

The Supreme Court hears appeals from the Provincial Court (Family) by way of stated case and

from the Provincial Court (Small Claims) by way of a trial de novo.

## Youth Jurisdiction

Young Offenders cases heard in the Provincial Court (Family) may be appealed to the Supreme Court but only with leave of the Supreme Court.

## Criminal Jurisdiction

The Supreme Court has unlimited jurisdiction over all criminal cases but generally hears only those cases which are exclusively within its own jurisdiction.

The criminal cases over which the Court has exclusive jurisdiction are indictable offences under S. 427 of the Criminal Code. These include treason, murder, mutiny and corrupting justice. All of these offences require a trial by judge and jury.

In addition, the Court has exclusive jurisdiction over indictable offences under the Combines Investigation Act. These cases are heard by a judge sitting without a jury.

The Supreme Court hears appeals from summary conviction offences in the Provincial Court (Criminal) by way of stated case or on a question of the Provincial Court's jurisdiction to hear a case.

## Chambers Jurisdiction

Under Rule 52 of the Rules of Court, a Supreme Court justice sitting in chambers has jurisdiction to hear all originating applications and, unless made in the course of trial, all interlocutory applications.

Generally, the following matters are heard and disposed of in chambers:

- appeals from and applications to confirm, vary, or set aside orders, reports, certificates, or recommendations of a master, registrar, special referee or other officer of the Court;
- actions or issues in actions which have been ordered to be proceeded with by affidavit or on documents before the Court, and special cases and hearings on a point of law;
- applications for judgement in default of appearance to writ, summary judgement, judgement in default of pleading, and for judgement on the basis of an admission;
- applications to set aside or vary a judgement; and

- matters which being otherwise proceeded with by action are ordered to be disposed of in chambers.

### Jurisdiction of Local Judges

County Court judges may exercise the jurisdiction of Supreme Court justices in the following matters:

- in any proceeding in the Supreme Court that could have been commenced in the County Court;
- under the Bankruptcy Act of Canada;
- under the Divorce Act of Canada;
- under all enactments except those for which the Supreme Court has exclusive jurisdiction; and
- under the Judicial Review Procedure Act where an application under that Act arises out of a determination or order made on an application under the Child Paternity and Support Act, the Family Relations Act or the Family and Child Service Act.

A County Court judge hearing any of the above matters is considered a local judge of the Supreme Court of British Columbia.

### D. Jurisdiction and Duties of Masters and Registrars

Both masters and registrars are officers of the Court who are appointed under the Public Service Act.

A master may, in addition to exercising the jurisdiction of a registrar, hear and determine any interlocutory application or class of interlocutory applications designated in writing by the Chief Justice and dispose of all non-contentious business in the administration of estates.

Registrars, district registrars and deputy district registrars are responsible for carrying out the duties assigned to them by any specific statute or enactment or by the Rules of Court. They have direct statutory jurisdiction to undertake the following duties:

- tax bills of costs between party and party, and solicitors and their clients;
- settle orders and appeal books;
- make declarations as to the state of the title to land;
- advise the legal profession and general public of procedural requirements;
- sign documents including orders, default and interlocutory judgements, mortgage foreclosures, as well as judgements resulting from court decisions;

- register bankruptcies;
- process uncontested personal bankruptcies;
- release garnishing orders;
- issue subpoenas to debtors;
- certify, examine and authenticate office copies of pleadings and other proceedings;
- make judgements in default of appearance;
- change the solicitor on record;
- amend pleadings;
- release exhibits;
- administer oaths;
- take affidavits and statutory declarations;
- receive affirmations;
- grant leave to renew an execution order; and
- grant orders for interlocutory or final judgement.

They may also hold any inquiry, assessment or accounting necessary to a case including: the determination of damages in an action; the valuation of family assets; the determination of a set-off; the passing of the accounts of executors, receivers and trustees; and the determination of the size of spousal maintenance payments.

## III. COUNTY COURT

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### A. Composition of the Court

This Court is established by the County Court Act R.S.B.C. 1979. The County Court has a Chief Judge and 47 federally appointed judges who also sit as local judges of the Supreme Court on certain matters. Additionally, there are three supernumerary judges.

### B. Geographic Distribution

There are seven County Courts in British Columbia located at Vancouver Island, Vancouver, Westminster, Yale, Caribou, Prince Rupert, and Kootenay. Within these locations are 39 registries. There is one judge at large, and the remainder of the judges must reside within the territorial limits of the Court in which they are appointed.

The registries for the County and Supreme Courts are integrated in each district.

### C. Jurisdiction of Judges

County Court judges have jurisdiction throughout the province.

The jurisdiction conferred on the County Court is in every case concurrent with the jurisdiction of the Supreme Court except for certain territorial, monetary, and subject-matter restrictions. The County Court also has concurrent jurisdiction with the Supreme Court in equity. Therefore, in many instances a party in a civil action has the option of having his/her case heard in either the Supreme Court or in the appropriate County Court.

It should also be noted that Supreme Court justices may preside in any County Court of the province and dispose of the business in any County Court, as could be done by a County Court judge.

### Civil Jurisdiction

Section 48 of the County Court Act lays out specific provisions regarding territorial restrictions as well as the locations where specific matters may be heard. These restrictions are as follows:

- in actions concerning land, the case must be heard in the County Court of the county in which the land in question is situated;
- in proceedings under the Trustee Act for remuneration of a personal representative and under the Estate Administration Act for a provision for a common-law spouse and illegitimate child of any person dying intestate, the case must be heard in the County Court of the county in which one of the persons making the application resides; and
- in proceedings in partnership cases, the case must be heard in the County Court of the county in which the partnership business was or is carried on, or, in which any one of the defendants resides.

There are several monetary restrictions governing the County Court. County Courts do not have jurisdiction to hear any proceeding which is under \$2,000 in value. The minimum value was increased to \$3,000 as of March 1, 1988.

County Courts have jurisdiction:

- in all personal actions where the debt, demand or damages claimed does not exceed \$50,000;
- in any action where the debt or demand claimed consists of a balance not exceeding \$50,000 after an admitted set-off of any debt or demand claimed or recoverable by the defendant from the plaintiff;
- in actions of ejectment where the value of the premises does not exceed \$50,000;

- in actions of replevin where the value of the goods or other property or effects distrained, taken or detained does not exceed \$50,000;
- in proceedings in which the title to land is in question, where the value of the land does not exceed \$50,000;
- in all proceedings in equity where the amount does not exceed \$50,000;
- in any action where the plaintiff has abandoned that portion of his/her claim which is in excess of \$50,000; and
- in proceedings under the Trustee Act, where trustees may pay trust money or transfer stock and securities into court and the monetary value does not exceed \$50,000.

On the consent of the parties, the Court can hear matters which exceed the \$50,000 restriction.

County Courts must also adhere to certain subject-matter restrictions. County Courts do not have jurisdiction in the following types of civil actions:

- malicious prosecution or any libel or slander;
- seduction or breach of promise of marriage; and
- against a Provincial Court judge for anything done by that judge while in the execution of office.

Furthermore, the Court does not have jurisdiction to hear any proceeding which is within the civil jurisdiction of the Provincial Court.

County Courts hear civil appeals from Provincial Court (Family) and Provincial Court (Small Claims) by way of a trial de novo.

### Criminal Jurisdiction

The County Court has concurrent jurisdiction with the Supreme Court over all criminal matters except those listed under S. 427 of the Criminal Code of Canada. The Court does not have jurisdiction to hear any action which is within the criminal jurisdiction of the Provincial Court.

The County Court hears criminal appeals from the Provincial Court (Criminal) by way of a trial de novo.

### Chambers Jurisdiction

The Supreme Court practice and Rules of Court apply to proceedings in the County Court. Therefore, the rules which apply to a Supreme Court judge sitting in chambers also apply to a County Court judge sitting in chambers.



## **D. Jurisdiction and Duties of Registrars and Masters**

The jurisdiction and duties of registrars and masters are the same as those described for registrars and masters of the Supreme Court.

## **IV. PROVINCIAL COURT**

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### **A. Composition of the Court**

This Court is established by the Provincial Court Act R.S.B.C. 1979.

Judges of the Provincial Court are appointed provincially by the Lieutenant Governor in Council based on the recommendations of a Judicial Council established under S. 12 of the Act.

In addition to the Chief Judge and two Associate Chief Judges, there are 115 judges, including 17 administrative judges.

The Chief Judge has the power and duty to supervise the judges and may designate the particular case or matter, class of case or matters (criminal, small claim, family and youth), or court facility, in which a particular judge shall act, or assign a particular judge to duties considered advisable.

### **B. Geographic Distribution**

The Court may sit at any place in the province for the orderly dispatch of the business of the Court. There are 78 Provincial Court locations with permanent registries of which 43 have resident judiciary. Twenty-one additional locations do not have permanent registries or resident judiciary. One of the above handles criminal matters only (Vancouver), one location handles small claims matters only (Vancouver), two locations handle family and youth matters only (Vancouver, Victoria) and one location handles family, youth and small claims matters only (Surrey).

### **C. Jurisdiction of Judges**

Section 2(2) generally sets out the jurisdiction of the Court. The Court is a court of record, and the Court and every judge have jurisdiction throughout the province to exercise all the power and perform all the duties conferred or imposed on a judge of the Provincial Court, justice or two or more justices of the peace sitting together, by or under an enactment of the Province or of Canada.

### **Civil Jurisdiction (Small Claim)**

A trial in the Provincial Court (small claim) is held in the municipality where the claim arose or where the defendant lives or carries on business if there are sittings of the Court in the municipality. Otherwise, the trial is held at the Court nearest to the place where the cause of action arose.

There are two exceptions:

- the action can be heard in any court as long as all the parties or their counsel are present at the hearing and consent to the Court's jurisdiction; or
- the Court may at any time order that the action or trial be sent for hearing or disposition or otherwise to another judge or another part of the province.

The Court has jurisdiction in all civil matters where the amount claimed does not exceed \$3,000, except for those cases listed below. The maximum was increased from \$2,000 as of March 1, 1988.

There are also certain subject-matter restrictions. The Court has no jurisdiction:

- where the title to land comes into question;
- for malicious prosecution, libel or slander; and
- against a judge for anything done while in the execution of office.

Appeals are to the County Court.

### **Civil Jurisdiction (Family)**

The jurisdiction of the Provincial Court (family) is set out according to three specific categories of statutes.

The first category deals with the obligations of spouses toward each other and parents towards their children. The Court has jurisdiction over matters arising under the Family and Child Services Act regarding the protection of children, the Child Paternity and Support Act regarding guardianship and maintenance of a child of unmarried parents and matters of paternity, and the Family Relations Act which deals with all aspects of marital breakdown within provincial jurisdiction, including family support, custody, access and guardianship of children.



Appeals on these matters are to the Supreme Court.

The second category deals with the conduct of the child. The Provincial Court is specially authorized to hear matters involving young offenders for the purposes of the Young Offenders Act of Canada.

Appeals on indictable offences involving young offenders are to the Court of Appeal. Appeals on summary matters are to the County Court or to Supreme Court by way of stated case.

The third category includes statutes which deal with the conduct of adults toward children or other family members. There are two situations in which the court may deal with criminal offences under federal or provincial statutes. The first instance includes cases of adults committing indictable offences under the Criminal Code such as abandoning a child and failing to provide necessities for a child. The second instance deals with criminal cases where both the accused and victim are members of the same family.

Appeals on these as well as on federal and provincial criminal matters are to the Supreme Court.

#### Adult Criminal Jurisdiction

Every judge of the Provincial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

Appeals in summary matters are to the County Court, and to the Supreme Court for indictable matters.

#### D. Jurisdiction and Duties of Justices of the Peace

The justices of the peace in British Columbia are appointed by the Chief Judge of the Provincial Court pursuant to the Provincial Court Act R.S.B.C. 1979.

There are 10 justices of the peace designated to hear traffic matters on a full time basis. There are also on call stipendiary justices of the peace in most of the smaller communities of the province.

The remaining justices of the peace appointments are granted to existing civil servants. The duties of these individuals are to take informations, issue search warrants and warrants for arrest, handle

perfection of bail matters and conduct weekend remand hearings. Their legal jurisdiction requires them to issue process in all statutes heard in the Provincial Court. These include the Criminal Code of Canada, the Food and Drug Act, the Family Relations Act, the Reciprocal Enforcement of Maintenance Orders Act, the Small Claim Act, the Offence Act (B.C.), the Young offenders Act (Canada and B.C.), the Family and Child Service Act, and the Child Paternity and Support Act.

#### E. Jurisdiction and Duties of Registrars

In the Provincial Court (family and small claim), registrars have the following jurisdiction and duties:

- advising the legal profession and general public of procedural requirements;
- signing documents including orders, default and interlocutory judgements, as well as judgements resulting from court decisions;
- releasing garnishing orders;
- issuing subpoenas to debtors;
- certifying, examining and authenticating office copies of proceedings;
- changing the solicitor on the record;
- taking affidavits and statutory declarations; and
- receiving affirmations.

### V. COURT SERVICES

#### Organization of Court Services

The Court Services Branch has a dual role in British Columbia's justice system. As a branch of government, it is responsible for providing the staff, information and facilities to ensure court documents are filed, scheduled hearings proceed and court orders are carried out in the most cost-effective way possible. As a servant of the court, it is responsible to the Chief Justices of the Court of Appeal, Supreme Court and County Court and the Chief Judge of the Provincial Court for providing administrative services to the judiciary quite independent of government. The major programs of the Branch are Court Administration, Sheriff Services and Reporting/Recording.

In addition, the Support and Regulatory Services Branch provides a variety of services related to administration, development of Ministry policy, coordination of Ministry services and centralized accounting and personnel functions to all branches of

the Ministry of the Attorney General, including Court Services.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Ministry of the Attorney General and the Court Services Branch.

## **COURT SERVICES BRANCH**

The Court Services Branch is made up of Headquarters and Regional Operations. Headquarters is organized into two functional sections: Central Services, and Management Services consisting of Resource Analysis, Policy, Planning and Evaluation, Management Information and Systems, Human Resources Planning and Development, and Records Management.

The regional directors are responsible for all court services (court administration, sheriffs and reporter/recorders) and expenditures in their regions.

### **Office of the Director**

The Director of Court Services, the six regional directors, and the Director of Management Services who is responsible for headquarter operations, manage all the court services and act as liaison with the judiciary and other justice services. Administrative, clerical and stenographic services are provided to headquarters and regional operations through the Manager, Administrative Services.

The Director of Inspections reports directly to the Assistant Deputy Minister, Court Services. The Director is responsible for conducting financial, human resource, facility and operational inspections. In addition, the Director of Inspections checks on procedural compliance and performs audits.

### **Resource Analysis**

This area assists with branch budget preparation, allocation and the analysis of staff deployment and expenditure patterns. It also plans and analyzes facility requirements.

### **Policy, Planning and Evaluation**

This area undertakes specific research and evaluation projects and develops policy proposals. It also participates in Ministry-wide project and policy initiatives and analyses. This unit also prepares operational manuals for Court Services and participates in the development of forms and the review of procedures.

## **Management Information and Systems**

This area coordinates the development of all manual and automated information systems and works with central Ministry services and the B.C. Systems Corporation to implement systems.

## **Human Resource Planning and Development**

The manager is responsible for the development of training programs, organizing courses and for the coordination of the programs offered through the Justice Institute. A public education program is operated in the Vancouver Courthouse.

## **Records Management Centre**

The Centre operates a warehouse for storage of inactive court files from all courts in the province, arranges printing of forms used by the courts, police and Crown Counsel, and manages a central store for sheriffs' uniforms.

## **Regional Headquarters**

The regional directors oversee court operations in their region, prepare and manage their regional budget, participate in policy development, and work with other agencies in the justice system to improve the overall delivery of services.

## **Court Administration**

The services provided through Court Administration include:

- receiving and processing court documents;
- issuing service, notices, summonses, warrants for arrest;
- filing and retrieving court documents;
- trial scheduling and coordinating trial participants at all but the largest court locations;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- providing justices of the peace who issue process and before whom the police swear informations;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases;
- completing forms and compiling data for statistical analyses;
- providing information to the public, the bar and other agencies;
- preparing invoices and bills related to the sale of transcripts; and

- making arrangements for staffing circuit court sittings.

The clerk in Small Claim registries has a more responsible role than in other Provincial Court registries because the majority of litigants are not represented by lawyers. Therefore, the clerk assists the unrepresented litigants through the court process. Although legal advice is not given, procedures are explained and litigants are assisted in completing documents correctly. If a litigant requires complex documents (appeals, motions or affidavits) he/she is advised to seek legal advice and is informed of where such resources are available.

#### Sheriff Services

The authority for the appointment of the sheriffs and sheriff officers lies in the Public Service Act and the Sheriff Act, R.S.B.C. 1979. Pursuant to S. 2 of the Criminal Code, the sheriff is a peace officer and, in British Columbia, has province-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is a marshall or deputy marshall of the Federal Court in admiralty causes.

Sheriffs perform a number of services related to both criminal and civil case processing and court operations. They include:

- the service of documents
  - sheriffs are charged with the service of certain select documents such as summonses to judgement debtors; and
  - service of all documents in Family Court matters;
- court security
  - escort and protect judges while attending court;
  - supervise and protect accused;
  - protect the public attending court;
  - separate and protect witnesses; and
  - arrest on order of the judge (contempt);
- jury management
  - summon, pay, and provide comforts for juries;
  - prepare attendance lists; and
  - seclude and guard juries;
- escorts
  - accused and convicted persons both adult and young offender, after arrest between lockups or detention centres, on remands and after sentence to provincial or federal centres; and
  - witnesses when ordered by court and when in custody;

- executions
  - writs of seizure and sale and other writs of execution issued under the Supreme Court Rules;
  - writs of fieri facias (federal courts);
  - warrants to arrest ships;
  - sheriff sales (land);
  - orders of replevin; and
  - seizures under the Repairers Lien Act and Woodworkers Lien Act.

#### Court Reporting and Recording Services

Court reporters who are trained as steno-typists report all cases heard in the County and Supreme Courts and the Court of Appeal. Approximately 160 are contract reporters paid on a per-diem basis, while 33 are Court Services staff. Transcripts are provided for all oral and written judgements given in the County and Supreme Courts. A copy is submitted to the judge and the original transcript is filed with the registry where the case originated. Copies are also sent to litigants upon request.

All court reporters receive fees from both the Crown and counsel in private practice for the preparation of transcripts. The staff reporters are not members of the public service union as a result of their being paid fees.

Court recorders, who record Provincial Court proceedings using a recording machine, are mostly salaried staff of the Court Services Branch. They record all family, criminal and juvenile cases, and small claims proceedings upon request or in special circumstances.

Transcripts are prepared for all preliminary inquiries and for all other matters upon request. Fees charged for transcripts produced by court recorders are paid into the court registry.

The administrative responsibilities of the recorders include:

- the maintenance of recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto tape during proceedings;
- maintaining a written log of participants and events during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation of playback and transcription; and
- preparing invoices and billings.



Outside of their regular superior court duties, court reporters also provide reporting services during examinations for discovery and in Provincial Court.

#### **SUPREME AND COUNTY COURT JUDICIARY**

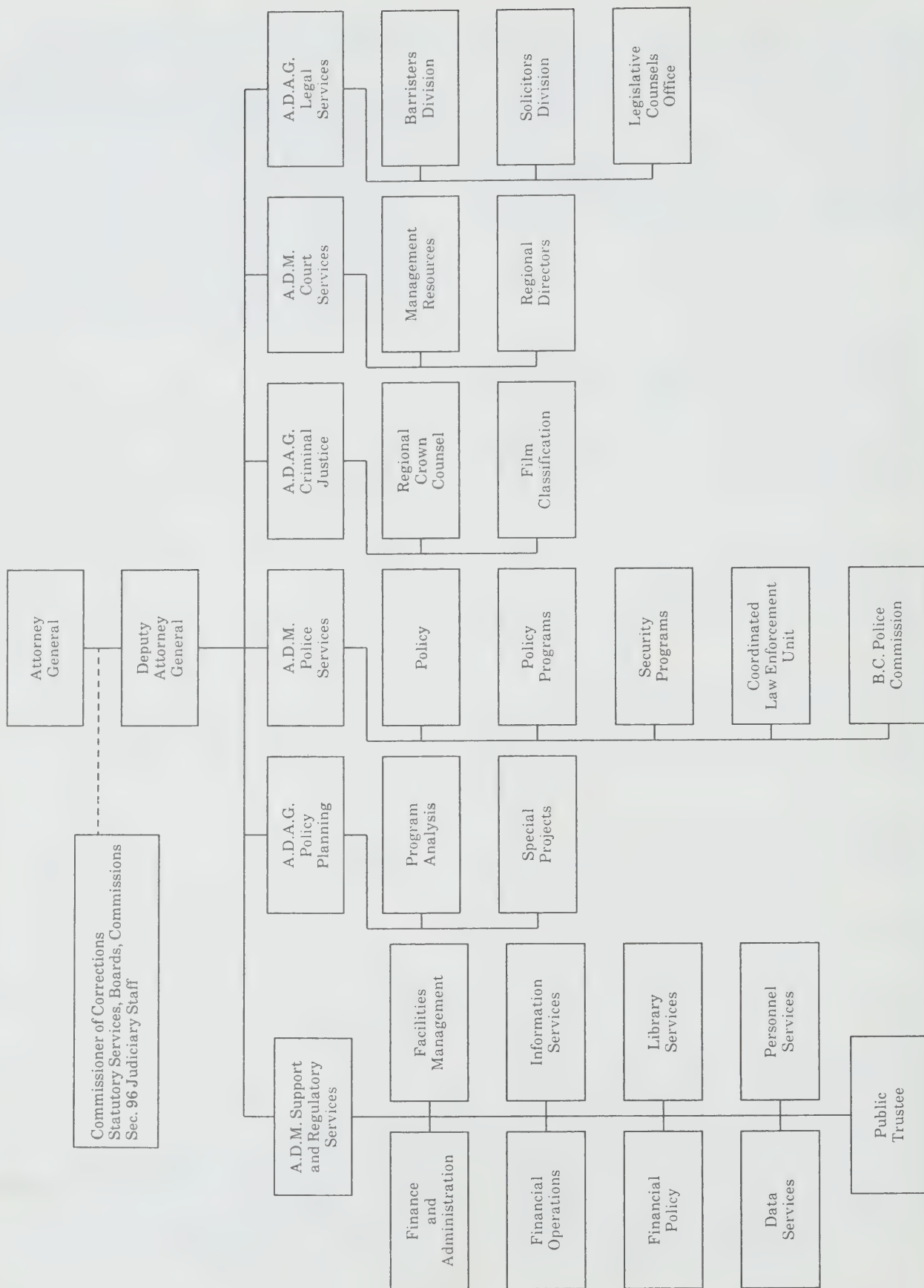
The Ministry of the Attorney General provides staff who assist and report to the Supreme and County Court judiciary. These include registrars, secretaries, law clerks and trial schedulers.

#### **PROVINCIAL COURT JUDICIARY**

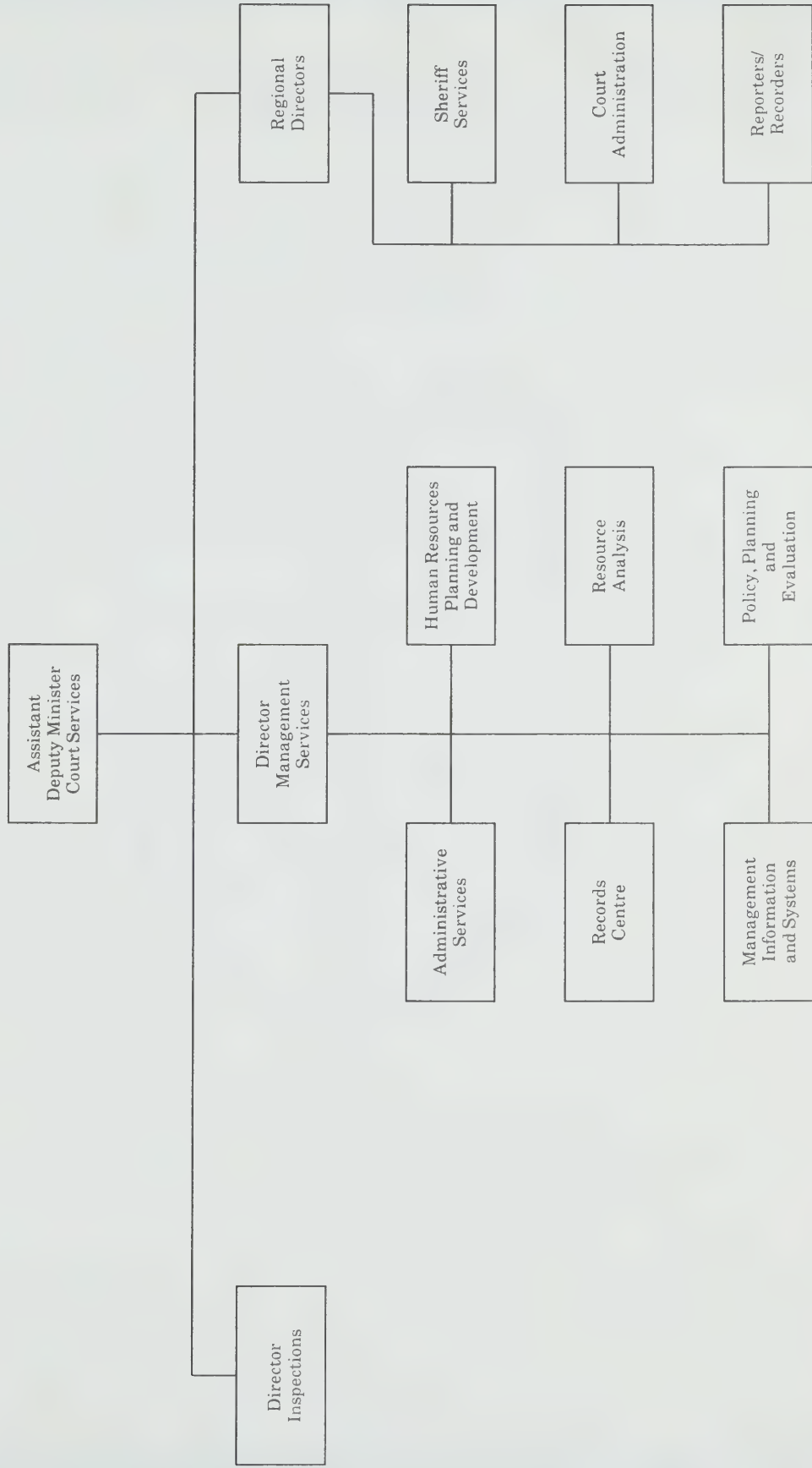
There are 115 Provincial Court judges, 10 sitting justices of the peace who hear traffic matters and 18 support staff who assist in administrative functions and trial coordination.



# MINISTRY OF THE ATTORNEY GENERAL, BRITISH COLUMBIA



COURT SERVICES BRANCH, BRITISH COLUMBIA





# Yukon







## **I. COURT OF APPEAL**

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### **A. Composition of the Court**

This Court is established by the Court of Appeal Act R.S.Y.T. 1986. The Court of Appeal consists of the justice of the Supreme Court of the Yukon, the two justices of the Supreme Court of the Northwest Territories, and the justices of the Court of Appeal of British Columbia, all of whom are appointed federally by the Governor in Council.

Three justices of the Court of Appeal constitute a quorum and may lawfully hold court.

### **B. Geographic Distribution**

The Court of Appeal sits in Whitehorse once a year for one week but most of the cases are heard when the Court sits in Vancouver. There are registries in both Whitehorse and Vancouver.

### **C. Jurisdiction of Justices**

The Court of Appeal of the Yukon Territory has jurisdiction in all civil and criminal matters on appeal from the Territorial Court and the Supreme Court. Appeals from the Court of Appeal are to the Supreme Court of Canada.

The rules of practice for the Court of Appeal have been adopted from the Rules of the British Columbia Court of Appeal.

### **D. Jurisdiction and Duties of the Registrar**

The functions of the Registrar of the Court of Appeal are similar to those performed by the Clerk of the Supreme Court except that the Registrar also settles Appeal Books.

## **II. SUPREME COURT**

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### **A. Composition of the Court**

This Court is established by the Supreme Court Act, R.S.Y.T., 1986. The Supreme Court consists of one resident justice, two deputy justices from the Northwest Territories, nine deputy justices from British Columbia, 14 from Alberta, five from Quebec, four from Ontario, two from Saskatchewan, and one from Manitoba. All are appointed federally by the Governor in Council.

### **B. Geographic Distribution**

The Supreme Court sits on a regular basis in Whitehorse, but may sit in some smaller communities upon request. There is one court registry situated in Whitehorse.

### **C. Jurisdiction of Justices**

The Supreme Court is a superior court of record having full civil and criminal jurisdiction throughout the Yukon Territory, except in those matters or cases excluded by statute.

### **D. Jurisdiction and Duties of the Clerk of the Supreme Court**

The Clerk of the Supreme Court is appointed by the Commissioner of the Yukon Territory in accordance with S. 8 of the Supreme Court Act.

Reporting to the Director of Court Services, the Clerk of the Supreme Court is responsible for holding quasi-judicial hearings, trial scheduling in the Supreme Court and providing technical expertise on the efficient operation of the Supreme Court registry. The functions of the Clerk include the following:

- signing documents including orders, default and interlocutory judgements, as well as judgements resulting from court decisions;
- registering bankruptcies;
- uncontested personal bankruptcies;
- taxing bills of costs;
- issuing orders under the Taxation Act and the Mediation Act;
- executing conveyances, transfers or mortgages ordered by the Court;
- inquiring into the merits of an application to the Court;
- issuing subpoenas to debtors;
- signing all orders, decrees and judgements;
- granting leave to renew an execution order;
- administering oaths;
- taking affidavits and statutory declarations;
- receiving affirmations; and
- scheduling all trials and appearances before the Supreme Court.

The Clerk of the Supreme Court also acts as Registrar of the Court of Appeal, Registrar of Bankruptcy, Chairman of the Mediation Board, and Deputy Registrar of the Federal Court of Canada.

### III. TERRITORIAL COURT

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#### A. Composition of the Court

This Court is established by the Territorial Court Act, R.S.Y.T. 1986. The Territorial Court consists of the Chief Judge, two other judges and several deputy judges on call.

Judges of the Territorial Court are appointed by the Commissioner of the Yukon Territory based on the recommendations of a Judicial Council established under S. 7(1) of the Territorial Court Act.

#### B. Geographic Distribution

The Territorial Court sits permanently in Whitehorse and goes on circuit to 11 locations as required. There are three permanent registries maintained in Whitehorse, Dawson City and Watson Lake. When on circuit, the Court travels with a judge, clerk, court reporter, Crown prosecutor and defense counsel.

#### C. Jurisdiction of Judges

Section 4 of the Territorial Court Act generally sets out the jurisdiction of the Court. The Court is a court of record. The Court and every judge have jurisdiction throughout the Territory to exercise all the powers, duties and functions conferred or imposed on a judge of the Territorial Court, a magistrate, justice or two or more justices of the peace sitting together, by or under the Yukon Act or any other law, ordinance or act of the Territory or of Canada.

##### Family and Youth Jurisdiction

The Territorial Court has jurisdiction to hear all youth matters as outlined in the Young Offenders Act, and all family matters with the exception of divorce, custody and adoption but including:

- matrimonial property;
- support maintenance;
- child welfare;
- intra-family Criminal Code offences; and
- guardianship.

Appeals on family and youth matters are to the Supreme Court.

##### Adult Criminal Jurisdiction

Every judge of the Territorial Court is specially authorized by the terms of appointment to exercise

the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

Appeals from summary matters are to the Supreme Court, and to the Court of Appeal for indictable matters.

#### D. Jurisdiction and Duties of the Clerk of the Territorial Court

Reporting to the Director of Court Services, the Clerk of the Territorial Court is primarily responsible for coordinating the Court schedule. The Clerk also provides the related service of advising the Registry Manager on procedures and on the validity of issues presented to the registry for processing. As a justice of the peace, the Clerk of the Territorial Court also provides certain quasi-judicial duties related to the operation and administration of the Court.

#### E. Jurisdiction and Duties of Justices of the Peace

Justices of the peace are appointed by the Commissioner of the Yukon Territory based on the recommendations of a judicial council. Justices of the peace perform several quasi-judicial functions for which they receive an honorarium and an hourly sitting fee. The authorization to perform each of the functions listed below varies among justices of the peace according to classification and the powers vested in them by the Chief Judge of the Territorial Court. The duties of justices of the peace include:

- receiving informations pursuant to all federal and territorial laws;
- confirming or cancelling appearance notices, promises to appear, and recognizances;
- issuing or cancelling summonses, warrants for arrest or subpoenas;
- issuing or cancelling search warrants pursuant to all federal and territorial laws;
- arraigning accused persons;
- granting adjournments in all territorial and federal matters;
- conducting judicial interim release hearings except where detention is sought and the accused does not consent to detention;
- sentencing upon a guilty plea any by-law offence;
- sentencing upon a guilty plea any summary federal act offence except where the Crown seeks a fine or jail sentence in excess of summary conviction limits;

- conducting hearings for the purposes of the identification of children under the Children's Act;
- hearing any territorial act or by-law offence except where the Crown seeks a fine in excess of \$2,000 or a jail sentence in excess of three months;
- hearing any summary federal act where the Crown does not seek a fine in excess of \$2,000 or a jail sentence in excess of three months;
- hearing any application pursuant to the Children's Act where the Department is not seeking an order of any kind for more than a two month period; and
- exercising jurisdiction under S. 6 and S. 8 of the Young Offenders Act.

Appeals from decisions of justices of the peace are to the Supreme Court.

In Whitehorse, Dawson City and Watson Lake, justices of the peace receive support services from Court Services staff. In other locations, support services are not available and justices of the peace are responsible for recording proceedings and forwarding all court documents to Whitehorse.

#### IV. SMALL CLAIMS COURT

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##### A. Composition of the Court

This Court is established by the Small Claims Court Act, R.S.Y.T. 1986. The Small Claims Court is presided over by a judge of the Territorial Court. Every judge of the Territorial Court is a judge of the Small Claims Court. The Commissioner in Executive Council may appoint a lawyer to act as a deputy judge.

##### B. Geographic Distribution

The Small Claims Court sits in every location as the Territorial Court and accompanies the Territorial Court on circuit as required. The Small Claims Court shares the same three permanent registries as the Territorial Court.

##### C. Jurisdiction of Judges

Section 2 of the Small Claims Court Act sets out the jurisdiction of the Court. The Court has jurisdiction:

- in any action for the payment of money where the amount claimed does not exceed \$3,000 exclusive of interest and costs;

- in any action for the recovery of possession of personal property where the value of the property does not exceed \$3,000; and
- in any other act or function assigned to it by or under any other Act.

The Small Claims Court does not have jurisdiction in:

- any action for the recovery of land or in which an interest in land comes into question;
- any action against the personal representatives of a deceased person or in which the validity of a devise, bequest or limitation under a will or settlement is disputed; or
- any action for libel or slander.

Appeals from a final order of the Small Claims Court lie to the Supreme Court by way of a trial de novo.

##### D. Jurisdiction and Duties of the Clerk of the Small Claims Court

The Clerk of the Territorial Court also performs the duties of the Clerk of the Small Claims Court. Similarly, other officials of the Territorial Court are officials of the Small Claims Court.

Reporting to the Director of Court Services, the Clerk is responsible for trial coordination of the Small Claims Court. The Clerk also advises the Registry Manager on matters relating to procedures and determines the validity of issues presented to the registry for processing. The Clerk of the Small Claims Court exercises all of the jurisdiction and duties imposed on the Clerk of the Territorial Court.

#### V. COURT SERVICES

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##### Organization of Court Services

Three branches of the Department of Justice provide services to the courts in the Yukon.

The Court Services Branch provides staff who perform all administrative, case processing, and sheriff services necessary to operate all of the Yukon Courts.

The Finance and Administration Branch provides central administrative, financial and personnel services.



The Policy and Planning Branch provides central coordination of operational and administrative policy and planning activities.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department of Justice of the Yukon and the Court Services Branch.

## COURT SERVICES BRANCH

### Court Administration

Under the Deputy Minister of Justice, the Director of Court Services coordinates the administrative activities of the courts and is assisted by the Clerk of the Supreme Court (who is the Registrar of the Court of Appeal), the Clerk of the Territorial Court, the Sheriff in Whitehorse, and the Law Librarian. Through this Branch, all of the services in the court registries for all of the courts, as well as clerks of the court are provided. The functions performed include:

- receiving and processing legal documents;
- issuing notices, summonses, warrants for arrest, writs process and orders of the court;
- storing and retrieving court documents;
- trial scheduling and coordination;
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses;
- receiving, storing, maintenance and release of court exhibits;
- preparing interim and final court orders;
- coordinating justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who travel to all circuit locations, call the court to order, call cases, administer oaths, take custody of documents and evidence submitted in court, and record pertinent information about the proceedings, disposition of cases and decision made by the judge;
- completing forms and compiling data for statistical analyses;
- providing information to the general public and to lawyers on procedural requirements;
- administering youth document records (access and destruction);
- making arrangements for circuit court sittings including managing transportation needs, arranging for court facilities, and arranging accommodation for court parties; and
- providing information necessary for other related services to operate such as the monitoring of restitution and maintenance.

### Sheriff Services

The authority for the appointment of the sheriff and sheriff officers lies in the Judicature Act. Pursuant to S. 2 of the Criminal Code, the sheriff is a peace officer and has territory-wide jurisdiction. Pursuant to the Federal Court Act, Rules and Regulations, the sheriff is a marshal or deputy marshal of the Federal Court in admiralty causes.

The Sheriff is also the chief territorial firearms officer and, as such, has the responsibility of administering all firearms legislation.

In the Yukon, Sheriff Services performs a number of functions related to both civil and criminal case processing and court operations. They include:

- executing writs of seizure and sale issued by the Supreme, Territorial, and Small Claims Court
  - determining whereabouts of debtors and assets;
  - investigating and interviewing debtors, solicitors, plaintiffs and general public to ascertain value and ownership of assets;
  - seizing and selling such assets; and
  - accounting for and disbursing monies received as a result of the sale;
- executing orders and warrants (chattel mortgages, Landlord Tenant Ordinance, conditional sales)
  - determining the location of the chattel;
  - acting as a bailiff to seize such items as vehicles, buildings, heavy equipment and other assets considered not exempt under the Exemptions Ordinance;
  - preparing an inventory of all items seized and ensuring their safe keeping;
  - hiring and supervising casual assistants as required; and

- accounting for and disbursing monies realized from the sale of assets;
- effecting court orders
  - evicting tenants, physically if necessary, as ordered;
  - arresting and committing prisoners;
  - arranging for the conveyance of equipment to lawful owners; and
  - transporting debtors to the Whitehorse Correctional Centre;
- providing court security and maintaining order in the Supreme Court
  - escorting and protecting judges while attending court;
  - protecting the public attending court;
  - arresting on order of the judge (for contempt); and
  - searching the public prior to entering courtrooms as directed;
- coordinating service of all civil documents in the Yukon
  - supervising and directing fee for service process servers in rural areas and directing the RCMP detachments in areas not served by civilian process servers;
  - maintaining records for all documents served;
  - invoicing law firms for services rendered;
  - preparing cheque requisitions for payment of sheriffs' fees; and
  - reconciling invoices issued against monies received;
- jury management
  - summon, pay, provide comforts for juries;
  - prepare attendance lists; and
  - seclude and guard juries.

Casual staff are hired to assist in sheriff functions and private process servers are used in rural areas on a fee-for-service basis.

The police are responsible for the service of criminal documents, escorting prisoners within the courthouse and the provision of court security in Territorial Court when requested by the liaison officer.

## **Court Reporting**

All court reporters/recorders in the Yukon are employed on a contract basis. They record all cases in Whitehorse and on circuit for the Supreme Court and Territorial Court. Outside of Whitehorse, justices of the peace record their own proceedings.

The administrative responsibilities of court reporters/recorders include:

- monitoring examination proceedings;
- maintaining recording equipment and supplies;
- setting up reporting/recording systems in the courtrooms and monitoring the recording onto tape during proceedings;
- maintaining a written log of participants and events during proceedings;
- monitoring transcript requests to ensure accurate and timely transcription services;
- keeping inventory and storage of notes and recorded tapes to ensure preservation for transcription and playback; and
- preparing invoices and billings for all parties requesting transcripts.

## **Native Courtworkers**

Native Courtworker services are provided to persons of native origin before the courts in both civil and criminal matters through fee-for-service contracts with the Council for Yukon Indians.

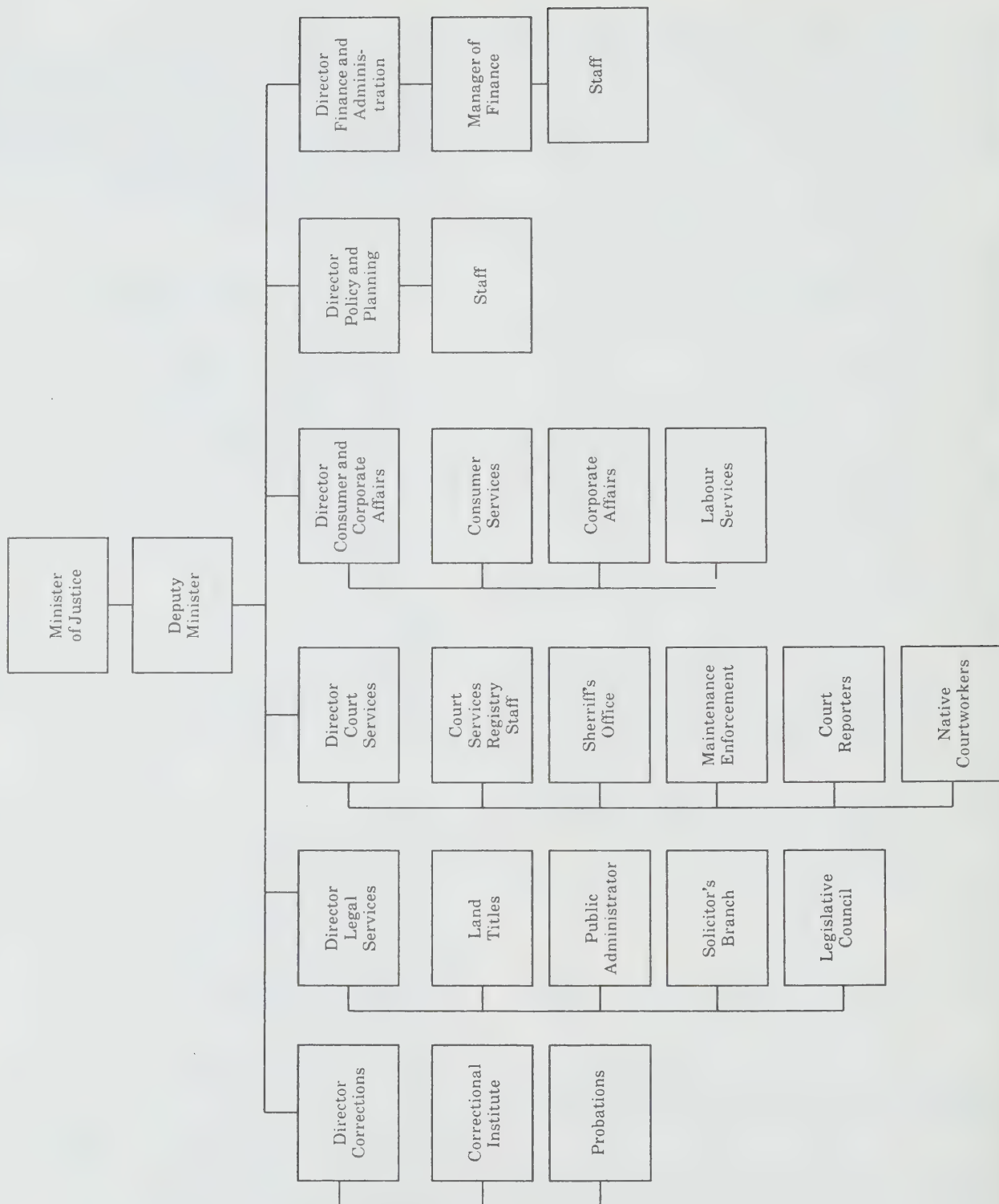
## **FINANCE AND ADMINISTRATION BRANCH**

The Finance and Administration Branch of the Department of Justice is responsible for providing centralized administrative, financial and personnel services to the Department including the Court Services Branch. This Branch ensures proper receipt and expenditure of funds and provides daily assistance to branch managers in all facets of the budgeting/control process.

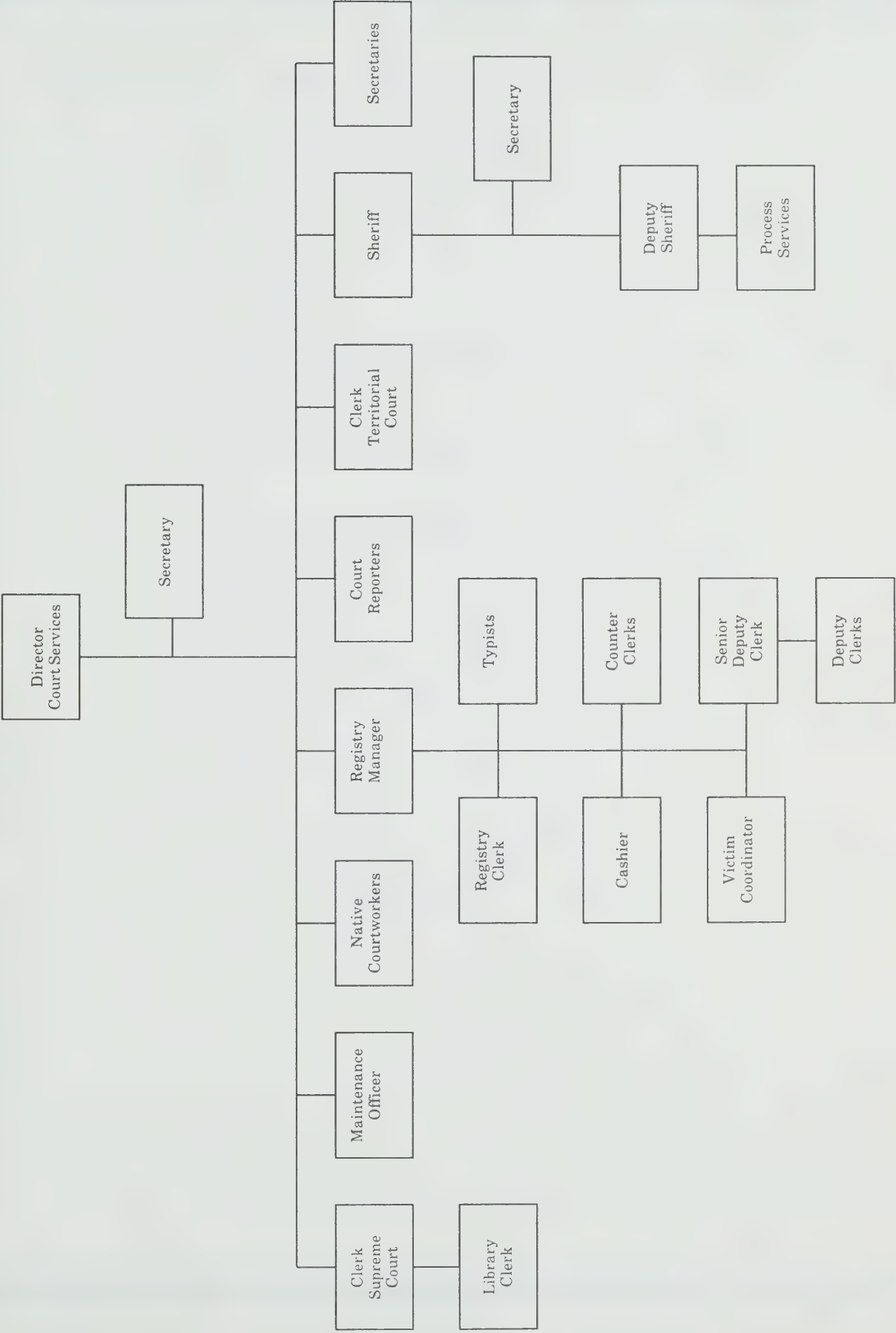
## **POLICY AND PLANNING BRANCH**

This Branch coordinates the operational and administrative policy and planning activities of the Department of Justice. It provides analytical review capability for existing or proposed programs; procedures on departmental legislation; evaluation of existing programs; long range planning and communications strategies; and coordinates the development of departmental projects and operational policies by providing centralized project management.

# DEPARTMENT OF JUSTICE, YUKON



COURT SERVICES BRANCH, YUKON







# Northwest Territories





## **I. COURT OF APPEAL**

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### **A. Composition of the Court**

Under the Judicature Act, R.O.N.W.T., 1974 the Court of Appeal consists of the resident justice of the Northwest Territories Supreme Court, the resident justice of the Yukon Supreme Court, the Chief Justice of Alberta and 12 judges of the Court of Appeal of Alberta, all of whom are appointed federally by the Governor in Council.

The Court sits with a quorum of three justices.

### **B. Geographic Distribution**

The Court sits at least once annually in Yellowknife, and by order, in Edmonton and Calgary, as the need arises.

### **C. Jurisdiction of Justices**

The Court of Appeal has appellate jurisdiction in criminal and civil matters from the Supreme Court and Territorial Court.

### **D. Jurisdiction and Duties of the Registrar**

In the Northwest Territories, the Clerk of the Supreme Court is also the Registrar of the Court of Appeal and is responsible for:

- the coordination and staffing of Appeal Court sittings;
- the administration of all Court documents and filed materials;
- receiving and filing all Notices of Appeal, Appeal Books, Factums and sentence material;
- corresponding with and complying with instructions received from the Chief Justice of the Court of Appeal;
- advising members of the general public as to the procedures involved in filing appeals;
- circuit travel (Edmonton and Calgary) as required; and
- the taxation of costs.

## **II. SUPREME COURT**

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### **A. Composition of the Court**

This Court is established by the Judicature Act R.O.N.W.T. 1974. The Supreme Court consists of the

two resident justices of the Northwest Territories, the resident justice of the Yukon, and when required, deputy judges from superior courts across Canada, all of whom are appointed federally by the Governor in Council.

### **B. Geographic Distribution**

The Supreme Court is based in Yellowknife and goes on circuit throughout the Territory as required. Outside of Yellowknife, there are no other permanent Supreme Court registries.

### **C. Jurisdiction of Justices**

The Court is a court of original jurisdiction and, as such, has jurisdiction in all cases, civil and criminal, arising in the Northwest Territories except those matters or cases expressly excluded by statute. It also acts as both a civil appellate and criminal appellate court.

#### **Civil Jurisdiction**

The civil jurisdiction of the Court is unlimited as to the monetary amount involved, but cases generally deal with financial disputes over \$5,000.

#### **Family Jurisdiction**

The Supreme Court has jurisdiction over marriage, judicial separation, corollary relief, divorce, child welfare, paternity, nullity, matrimonial property, support/maintenance, custody/access, legitimacy, guardianship, adoption, change of name and intra-family Criminal Code offences.

#### **Criminal Jurisdiction**

The Court has jurisdiction over indictable offences under the Criminal Code and hears summary conviction appeals from decisions of the Territorial Court and the Justice of the Peace Court.

### **D. Jurisdiction and Duties of the Clerk**

The Clerk of the Supreme Court is appointed by the Commissioner of the Northwest Territories in accordance with the Judicature Act. In addition to being appointed as the Registrar of the Court of Appeal, the Clerk performs the following duties:

- filing and preserving all original wills submitted to the Court;
- acting as the Registrar in Bankruptcy for the Northwest Territories under the provisions of the Bankruptcy Act;



- hearing applications for discharge of trustees and bankrupts;
- refereeing at meetings of creditors and debtors before granting Consolidation Orders; and
- taxing solicitors' bills of costs;

In addition to the above duties, the Clerk of the Supreme Court provides for and oversees clerical support staff in the registry.

### III. TERRITORIAL COURT

#### A. Composition of the Court

This Court is established by the Territorial Court Act, O.N.W.T. 1978. The Territorial Court consists of the Chief Judge and three other judges who are appointed by the Commissioner of the Northwest Territories.

#### B. Geographic Distribution

The Court sits permanently in Yellowknife, Hay River and Iqaluit, and on circuit as required, at 53 locations without a permanent registry.

#### C. Jurisdiction of Judges

Section 15 of the Territorial Court Ordinances sets out the general jurisdiction of the Court. It is a court of record, and the Court and every judge have jurisdiction throughout the Territories to exercise all the power and perform all the duties conferred or imposed by or under any ordinance of the Territory or act of Canada.

##### Civil Jurisdiction

Territorial Court judges have civil jurisdiction in:

- actions arising out of contract, expressed or implied, and actions of debt, where the debt, demand or damages claimed do not exceed \$5,000;
- personal actions in tort where the damages claimed do not exceed \$5,000;
- all actions for the recovery of personal property, including actions of replevin and for detinue, where the value of the property claimed does not exceed \$5,000;
- interpleader proceedings where the person seeking relief is under liability for any debt, money or chattels to an amount or value not exceeding \$5,000 for and in respect of which

adverse claims are made by two or more persons;

- interpleader proceedings where the applicant is a sheriff or some other officer charged with the execution of process and claim is made to any money or chattels taken or intended to be taken in the execution, or the proceeds of value thereof, by a person other than the person against whom the process is issued, where the money, proceeds or value of the chattels claimed does not exceed \$5,000;
- garnishment proceedings for the attachment of debt due, obligations and liabilities owing, payable or accruing due by a third person to a person against whom an action for a debt or liquidated demand not exceeding \$5,000 is or is about to be commenced or against whom a judgment has been given not exceeding \$5,000; and
- attachment proceedings for the recovery of a sum not exceeding \$5,000 for debt or damages arising upon a contract, expressed or implied, or upon a judgement upon the personal property of a person who
  - (i) being a non-resident of the Territories, is so indebted or liable to a resident of the Territories, or
  - (ii) with intent to defeat or defraud his/her creditors or those who have causes of action against him/her absconds or is about to abscond from the Territories leaving personal property, is about to remove his/her personal property out of the Territories, or did or is about to assign, transfer, dispose of or secrete such property or to conceal himself to avoid service of process.

A Territorial Court judge is not vested with civil jurisdiction in:

- actions in which the title to land or to an interest in land is brought in question;
- actions in which the validity of any devise, bequest or limitation is disputed;
- actions for malicious prosecution, false imprisonment, libel, slander, criminal conversation, seduction or breach of promise of marriage; and
- actions against a justice of the peace for anything done while in the execution of office.

##### Civil Claims (Small Debt) Jurisdiction

In the Northwest Territories, these claims have a monetary limit of \$3,000.

## Family Jurisdiction

The Territorial Court has jurisdiction over support/maintenance, child welfare, paternity, guardianship and intra-family Criminal Code offences.

## Youth Jurisdiction

The Territorial Court is a Youth Court within the meaning of the Young Offenders Act and has all the powers under that Act.

## Adult Criminal Jurisdiction

Every judge of the Territorial Court is specially authorized by the terms of appointment to exercise the jurisdiction conferred on a magistrate under Part XVI of the Criminal Code of Canada. A more comprehensive description may be found on page 18 in the section entitled Adult Criminal Jurisdiction.

### D. Duties of the Clerks

The Administrator, Territorial Court (Yellowknife) performs the statutory functions as Clerk of the Territorial Court, as well as providing technical and administrative direction to the satellite registries in Hay River and Iqaluit.

The clerk in Hay River serves 10 communities south of Great Slave Lake. The clerk in Iqaluit serves 14 communities in the Baffin region. The remaining 28 circuit points are served from Yellowknife.

## IV. JUSTICE OF THE PEACE COURT

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### A. Composition of the Court

This Court is established by the Justice of the Peace Act O.N.W.T. 1970. It consists of approximately 120 active justices of the peace who are appointed by the Commissioner of the Northwest Territories.

### B. Geographic Distribution

Justices of the peace reside and hold court in most locations throughout the Northwest Territories.

### C. Jurisdiction of Justices of the Peace

The Court adjudicates in summary conviction matters, territorial statutes and municipal by-laws. In addition, justices of the peace swear informations, issue search warrants, and conduct show cause and judicial interim release hearings.

### D. Duties of Justices of the Peace

Courtroom support services are not generally available to justices of the peace and as a result, they are responsible for recording proceedings and forwarding all court documents to Yellowknife and Hay River.

## V. COURT SERVICES

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### Organization of Court Services

Two divisions of the Department of Justice provide services to the courts.

The Court Services Division provides the necessary administrative, technical, and financial support to the courts of the Northwest Territories. Reporting to the Director, Court Services, and providing operational direction are the Juridical Administrator of the Supreme Court (Yellowknife), the Administrator, Territorial Court (Yellowknife), the Sheriff, the Court Librarian, the Chief Court Reporter and the Chief Coroner.

The Finance and Administration Division provides central financial and personnel administrative support to all divisions of the Department including Court Services.

The organization charts at the end of this chapter indicate where these services are located within the overall structure of the Department of Justice and the Court Services Division.

### COURT SERVICES DIVISION

#### Court Administration

Administrative support to the courts is provided through the Supreme Court registry (Yellowknife) and the Territorial Court registries (Yellowknife, Iqaluit and Hay River). Primary support services include:

- receiving and processing legal documents;
- issuing service;
- the storage and retrieval of court documents;
- coordination of trial scheduling (under the direction of the judge);
- accounting for monies paid into or out of court in the form of fines, fees and funds held in trust, as well as payments to witnesses, jurors and interpreters;

- receiving, storing and maintaining the integrity of court exhibits;
- preparing interim or final court orders;
- providing justices of the peace before whom the police swear informations and who issue process;
- monitoring the enforcement of court orders;
- providing clerks in court who call the court to order, administer oaths, take custody of documents and evidence submitted in court, record pertinent information about the proceedings, disposition of cases and decisions made by the judge, and travel to all circuit locations;
- completing forms and compiling data for statistical analyses;
- making arrangements for circuit court sittings;
- providing information to the general public and to lawyers on procedural requirements;
- administering youth document records (access and destruction); and
- providing information necessary for other related services to operate such as monitoring of restitution and maintenance.

### **Court Reporting and Recording**

Court reporters who record proceedings are full time staff in the Court Services Branch. They record all cases except for matters in the Justice of the Peace Court. Justices of the peace outside of Yellowknife are responsible for recording their own proceedings and forwarding all court documents and recordings to the registry in Yellowknife or Hay River. Reporters are paid a salary and also receive fees from both the Court Services Division and counsel in private practice for the preparation of transcripts.

The primary responsibilities of the reporters and recorders include:

- verbatim reporting of proceedings;
- the preparation of official transcription of proceedings;
- keeping storage of notes;
- monitoring transcript requests to ensure timely transcription services; and
- the preparation of invoices and billings regarding transcript production.

Transcripts are prepared upon request of the Crown, private counsel or the judge.

### **Sheriff Services**

Sheriff officers are appointed by the Commissioner of the Northwest Territories in accordance with the

Judicature Act. Pursuant to S. 2 of the Criminal Code, the Sheriff is a peace officer and has Territory-wide jurisdiction.

Sheriffs perform a number of functions related to civil case processing and court operations including:

- the service of civil documents
  - civil summonses and subpoenas, garnishing orders, petitions, notices and any other civil documents;
- court security (in the Supreme Court and Court of Appeal only)
  - escort and protect judges while attending court;
  - supervise and protect accused;
  - protect the public attending court;
  - separate and protect witnesses; and
  - arrest on order of the judge (contempt);
- jury management
  - summon juries;
  - prepare attendance lists; and
  - seclude and guard juries;
- escort of witnesses
  - when ordered by court; and
  - when in custody;
- executions
  - writs of seizure and sale and other writs of execution issued under the Supreme Court Rules;
  - writs of fieri facias (federal courts);
  - warrants to arrest ships;
  - sheriff sales (land); and
  - orders of replevin.

In the Northwest Territories, the police serve criminal documents and provide court security in Territorial Court.

### **Coroner Program**

The Chief Coroner is responsible for the appointment and training of coroners for the Northwest Territories. There are approximately 90 lay coroners located in most settlements across the Territory, who are paid on a fee-for-service basis.

### **Justice of the Peace Program**

The Director, Court Services is temporarily responsible for administering approximately 120 justices of the peace throughout the Northwest Territories. The program is being reviewed by a task



force which will make recommendations on reporting relationships, training programs and the structure of responsibilities. One of the main objectives of this review will be to transfer the Justice of the Peace Program to the judiciary of the Territorial Court.

Justices of the peace who are not Court Services staff are paid honoraria as well as fees-for-service.

### **Court Library**

The Court Librarian is responsible for maintaining the Supreme and Territorial Court Library which is located in Yellowknife. This library also supplies a number of small satellite libraries upon request.

### **FINANCE AND ADMINISTRATION DIVISION**

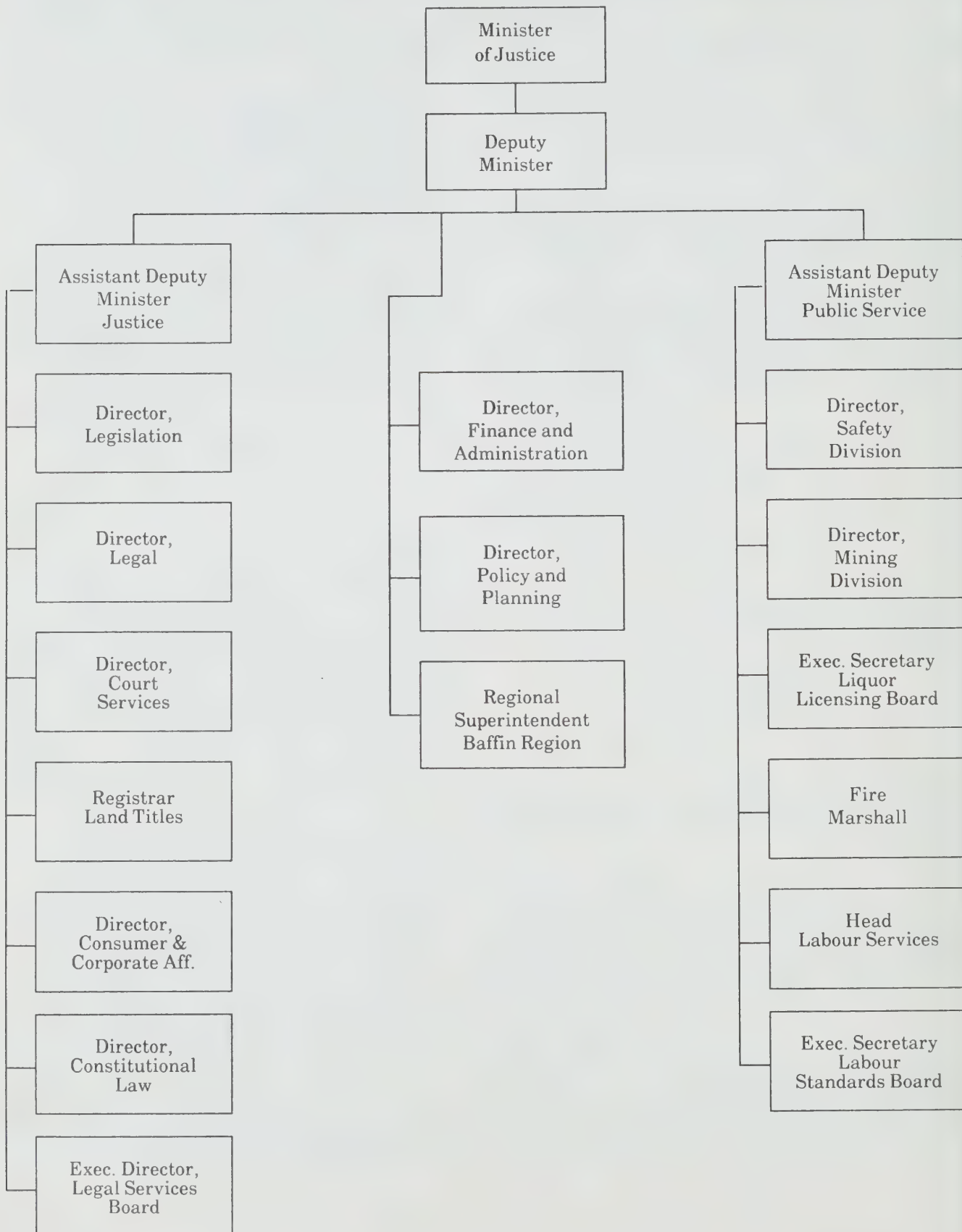
The Finance and Administration Division of the Department of Justice provides central finance and

administrative services to all branches of the Department including the Court Services Branch. Specifically, Finance and Administration provides the following services to the Court Services Branch:

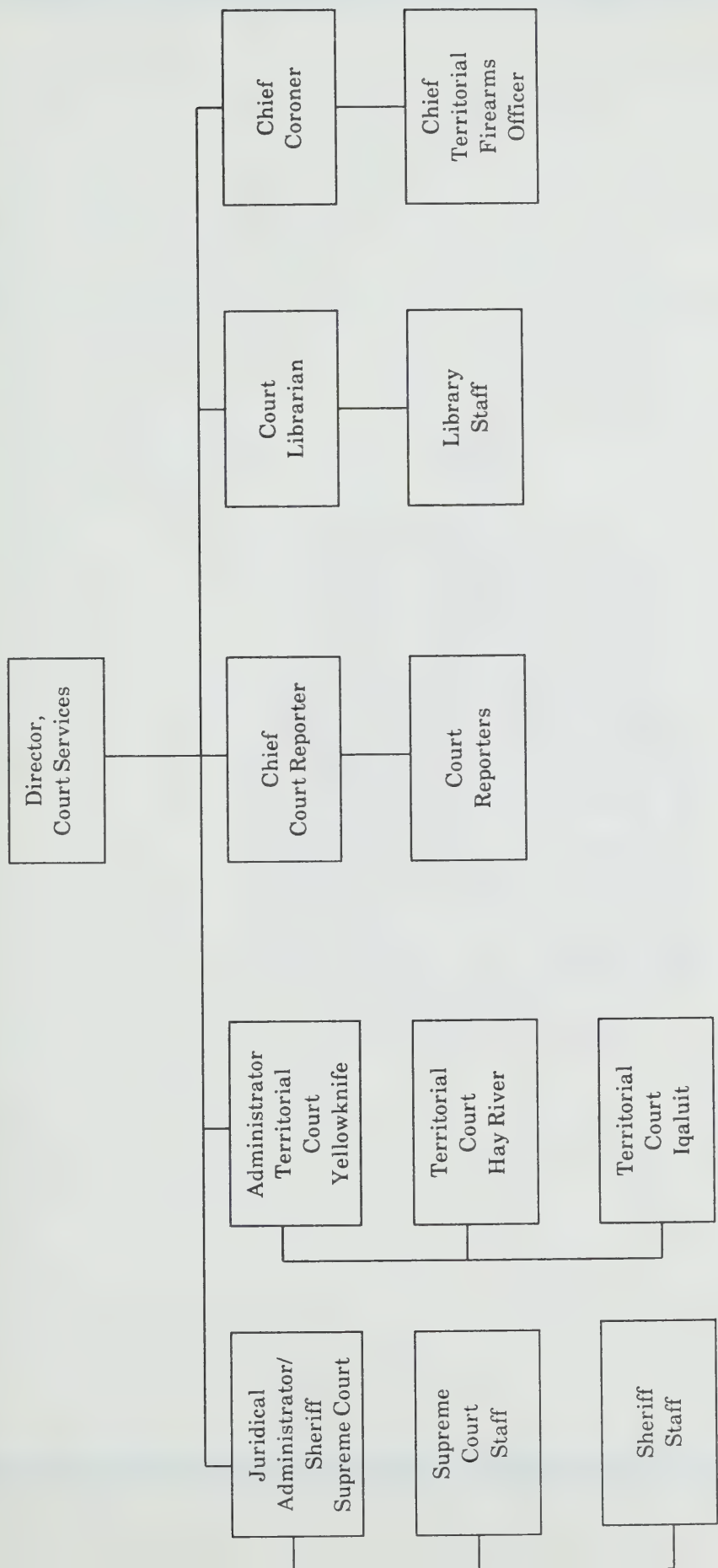
- the processing of payments from Court Services for expenditures related to employee expenses, overtime, and supplies;
- the invoicing for circuit travel by air;
- the development of budgets with the Director, Court Services;
- the provision of monthly, manually produced reports to the Department of Justice;
- processing into the Financial Information System from Court Services for expenditures;
- staffing (interfaces with Payroll and Personnel); and
- travel including issuing travel warrants for non-territorial employees, issuing advances, and processing expenses.



## DEPARTMENT OF JUSTICE, NORTHWEST TERRITORIES



COURT SERVICES DIVISION, NORTHWEST TERRITORIES





# Canada







## I. SUPREME COURT OF CANADA

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### A. Composition of the Court

The Supreme Court is established under the Supreme Court Act, R.S.C. 1970. It is composed of the Chief Justice of Canada and eight puisne justices, all of whom are appointed by the Governor in Council.

A quorum consists of five members, but the full court of nine now sits in most of the cases.

### B. Geographic Distribution

The Supreme Court sits only in Ottawa. It holds three sessions during the year: the first begins the fourth Tuesday in January and ends just before Easter; the second begins the fourth Tuesday in April and continues to the end of June; and the third begins the first Tuesday in October and ends just before Christmas. The statutory opening dates may be varied if prescribed notice is given.

### C. Jurisdiction of the Supreme Court

The Supreme Court is a general court of appeal for both criminal and civil cases. Its jurisdiction embraces the civil law of Quebec as well as the common law of the nine common law provinces and two territories. In criminal cases, the Court will hear appeals in respect of serious offences where an acquittal has been set aside or where there has been a dissenting judgement on a point of law in a provincial court of appeal. In addition, the Court may hear appeals on questions of law in respect of both summary convictions and serious offences if leave is first granted by the Court.

In civil cases, as a result of amendments effective January 27, 1975, appeals are heard by the Court only if leave is first given. The right of appeal no longer depends on the amount of money involved. Such leave will be given if the Court is of the opinion that a question of public importance is involved, or if there is an important issue of law or issue of mixed law and fact that ought to be decided by the Supreme Court or the matter is, for any other reason, of such a nature or significance as to warrant the consideration of the Court.

Leave to appeal to the Court may also be given by the provincial appellate court whose judgement is sought to be questioned in the Supreme Court of Canada. The provision exists for appeals in forma pauperis, that is, "poor person appeals", although with the

introduction of legal aid plans throughout Canada this provision is now rarely invoked.

The Court usually hears applications for leave to appeal on the first and third Monday in each month of each session. These hearing dates may be varied at the direction of the Chief Justice or, in the absence of the Chief Justice, the senior puisne judge present. Applications for leave are heard by three judges. The volume of work may be such as to require all nine judges to sit on applications in three panels, among whom the applications inscribed for hearing are divided. There is a time limit of fifteen minutes for each side on an application for leave, with five minutes for reply. Litigants may now use video conferencing to argue their applications from nine cities across the country. No time limit is fixed for the hearing of appeals on merits, as the Court relies on its own preparation and on the competence of counsel to avoid any waste of its time.

The Supreme Court has no original jurisdiction in respect of any actual litigation, but it has a special kind of reference jurisdiction, original in character, given by S.55 of the Supreme Court Act. The Governor in Council is authorized by that provision to refer to the Court for its opinion on important questions of law or fact concerning the interpretation of the Constitution Act, the constitutionality or interpretation of any federal or provincial legislation, or the powers of Parliament or of the provincial legislatures or of the respective governments.

Constitutional questions may, of course, also be raised in regular appeals involving individual litigants or governments or government agencies, and in such cases the federal government and the provincial governments must be notified of the constitutional question and may intervene to argue it.

### D. Jurisdiction and Duties of the Registrar

The Registrar, who is appointed by the Governor in Council, is responsible for the administration of the Court and reports to Parliament through the Minister of Justice. The Registrar has the authority to exercise the jurisdiction of a judge sitting in chambers as may be conferred upon him/her by general rules or orders made under the Supreme Court Act and undertakes other duties and responsibilities which may be assigned to him/her by the Chief Justice. The Registrar is assisted by a Deputy Registrar, appointed by the Governor in Council, who may exercise and perform all the powers and duties of the Registrar in the event that the Registrar is absent or unable to act.

## II. ADMINISTRATION

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### Office of the Registrar

Responsibility for the administration of the Court rests with the Registrar who is assisted by the Deputy Registrar. Also reporting to the Registrar are the Chief Librarian, the Assistant Registrar (Process), a Chief Law Editor, a Chief of Financial Services and a Chief of Personnel and Administration Services. Judges' Support Staff includes secretaries and attendants to the Chief Justice and the puisne judges.

### Publication

The Publication section encompasses all the tasks necessary to produce the Supreme Court Reports which contain the final published version of judgements rendered by the Court. The reports are produced in both official languages in bound form as a permanent record of the appeals. Legal staff prepare a summary which receives the approval of the Court and edit and standardize the text of each judgement. The Canadian Government Printing Office, Supply and Services Canada undertakes the printing and distribution of the Reports. Proofreading, however, is done at the Court. The Reports for each calendar year consist of two volumes of six parts each. In addition, a bulletin of proceedings taken in the Court is published every week that the Court is in session.

### Library

The library contains an extensive collection of approximately 350,000 volumes covering both common and civil law systems, including representative Commonwealth and European civil law publications. Although it is primarily responsible for making accessible to the judges of the Supreme Court of Canada the primary and secondary sources of the law essential to the exercise of a judicial function and for provision of information, bibliographic and research services for the Court, it is regularly consulted by counsel appearing before the Court and other members of the legal community, representatives of government departments and agencies, and others by special permission.

### Process Registry

The Process Registry is responsible for receiving, checking and processing all applications for leave to appeal and other motions to be heard before the Court or in judges' chambers as well as the appeals themselves. It provides to clients advice and assistance concerning the Process Registry's requirements as well as information to lawyers, the public and the media on the Court's rules of practice and the status of cases before the Court. The Process Registry also provides assistance in courtroom operations and in scheduling the activities of the Court including video conference services on applications for leave to appeal. The Court records and registers are maintained in this area.

### Personnel, Administration and Security

Personnel, Administration and Security includes all aspects of personnel, security and administration, as well as the provision of material management, records management and communication services required to support the operation of the Court.

### Finance

The Finance section is responsible for providing advice on resource management and other related matters, as well as planning, developing, maintaining and improving the various financial administration systems of the Court.

### Judges' Support Staff

This area includes secretaries and attendants to the Chief Justice and the puisne judges.

## III. JUDGES' SALARIES, ALLOWANCES AND ANNUITIES

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This area is responsible for all salaries, allowances and annuities paid to judges of the Supreme Court of Canada and annuities to spouses and children of judges as authorized by the Judges' Act. This area also pays gratuities to spouses or such dependents of judges who die while in office.



## **I. FEDERAL COURT OF CANADA**

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### **A. Composition of the Court**

The Federal Court of Canada is established under the authority of the Constitution Act, 1867, by the Federal Court Act, RSC 1970. It is a court of law, equity and admiralty, and is a superior court of record having civil and criminal jurisdiction.

The Court is organized into the Trial and Appeal Divisions and is composed of a Chief Justice, Associate Chief Justice and 23 judges, all of whom are appointed by the Governor in Council. In addition, the Chief Justice may, with the approval of the Governor in Council, request persons appropriately qualified in accordance with S.10 of the Federal Court Act to act as deputy judges. A total of 20 qualified persons may be requested to act as deputy judges. There is also provision in the Judges Act for judges to elect supernumerary status.

### **B. Geographic Distribution**

The Federal Court of Canada has one registry for the entire country. The registry is composed of the principal office in Ottawa and 16 local offices. Eight of these are staffed by employees of the Federal Court of Canada. The remaining eight are administered by provincial and territorial court employees. There is no circuit for the Federal Court of Canada. Trials or hearings may be held anywhere in the country.

### **C. Jurisdiction of the Court**

The Federal Court of Appeal has jurisdiction to hear appeals from the Trial Division, to review decisions of federal boards, commissions and tribunals under S. 28 of the Federal Court Act, to determine questions of law, jurisdiction or practice and procedure referred by federal boards, commissions and tribunals, and to hear appeals under various federal acts other than the Income Tax Act, the Estate Tax Act and the Canadian Citizenship Act. Appeals from decisions of the Court may be taken to the Supreme Court of Canada upon leave being granted by the Federal Court of Appeal or the Supreme Court of Canada.

The Federal Court Trial Division has jurisdiction in cases in which relief is claimed against the Crown, and in cases in which relief is claimed by the Crown or the Attorney General of Canada. The Trial

Division also has jurisdiction to hear proceedings for prohibition, mandamus, certiorari, injunction or declaratory relief against federal boards, commissions and other tribunals; interprovincial and federal-provincial disputes; industrial property proceedings; admiralty proceedings; income tax and estate tax appeals; citizenship appeals; and claims for relief if there is no other Canadian court that has such jurisdiction.

In addition, the judges of the Federal Court of Canada may act in special capacity under a variety of acts, including acting as umpires under the Unemployment Insurance Act, and as assessors under the Animal Disease and Protection Act and the Pesticide Residue Compensation Act.

### **D. Jurisdiction and Duties of the Administrator**

The chief officer of the registry of the Federal Court of Canada is the Administrator of the Court, who is the deputy head of that portion of the public service employed as staff of the Court. The Administrator is accountable to the Chief Justice for the operation of the registry and for all administrative matters necessary for the operation of the Court.

## **II. ADMINISTRATION**

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The Administrator of the Court is assisted by four deputy administrators, and by federally appointed district administrators. The district administrators are located in Halifax, Montreal, Quebec City, Toronto, Winnipeg, Calgary, Edmonton and Vancouver. Offices in other locations are maintained by provincial and territorial employees. Assistance is also provided by the assistant administrators, local office administration, and Personnel Services.

### **The Court Registry**

Through its principal office in Ottawa, and through the district offices, the Registry provides assistance to litigants in order to facilitate the advancement of cases. This includes responding to litigants' enquiries and informing them of procedures necessary to have their cases heard by the Court. The Registry also makes all other arrangements for court hearings and provides facilities and staff for court operations.



### **Local Offices**

All registry services provided by the principal office in Ottawa are also provided by the local offices. These are situated in 16 locations across Canada. Eight of these offices are operated by federally appointed staff and eight by provincial and territorial employees, under contractual agreements. In areas where the Registry does not have an office, access to the Court is available by means of written or telephone communications with any of the offices of the Registry.

### **Administrative Services**

Administrative, personnel and financial services are provided to all offices of the Registry by units located in the principal office of the registry.

In addition, the administration performs the function of maintaining trust accounts for money deposited with the Court. These accounts record the amounts paid into the Federal Court of Canada, which are held in trust pending payment in accordance with a judgement of the Court.

## **I. TAX COURT OF CANADA**

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### **A. Composition of the Court**

The Tax Court of Canada was established by the Tax Court of Canada Act, S.C. 1980-81-82-83, which was proclaimed in force on July 18, 1983. Section 4 of the Act provides for the appointment by the Governor in Council of a Chief Judge, an Associate Chief Judge and not more than 10 other judges. In order to maintain the judicial workload, the Chief Judge also has the authority under the Act to request the appointment of up to 12 deputy judges.

### **B. Geographic Distribution**

The Court, with its headquarters in Ottawa, also has its own accommodations in London, Toronto and Montreal. In addition, it shares accommodations with the Federal Court of Canada in Vancouver, Edmonton, Calgary, Winnipeg and Quebec City. The Court sits in major centres throughout the country in income tax appeals, with unemployment insurance appeals heard in smaller communities as well. At the present time there are staff in Toronto, Montreal and Quebec City.

### **C. Jurisdiction of the Court**

Section 12 of the Tax Court of Canada Act, gives the Court jurisdiction to hear and determine appeals to the Court on matters arising under the Income Tax Act, the Canada Pension Plan, the Petroleum and

Gas Revenue Tax Act, Part IV of the Unemployment Insurance Act, 1971 and any other Act of Parliament in respect of which an appeal is provided under any such Act to the Court.

### **D. Responsibilities of the Registrar**

The Registrar, who is the Deputy Head of the registry of the Court, through complete delegation of authority under legislation, reports to the Commissioner for Federal Judicial Affairs who in turn reports to the Minister of Justice.

## **II. ADMINISTRATION**

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Overall direction of the Administration of the Court is the responsibility of the Registrar. The Registrar is assisted by a Deputy Registrar (Income Tax) and an Assistant Registrar (Unemployment Insurance) who schedule hearings and provide advice and assistance to litigants regarding the practices and procedures of the Court.

Financial Services, Administrative Services and Personnel Services are provided by Administration of the Court. These services include: financial planning, budgeting, accounting, courtroom and other related facilities, office accommodations, furniture and equipment, printing and publications, stationary and supplies, library services and secretarial services.

## **I. OFFICE OF THE COMMISSIONER FOR FEDERAL JUDICIAL AFFAIRS**

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The Commissioner for Federal Judicial Affairs, under the Minister of Justice, is responsible for providing central administrative services for all federally appointed judges of the superior, county and district courts of the provinces and territories, as well as administrative services for the Canadian Judicial Council. More specifically, the Commissioner is responsible for the administration of the judges' salaries, allowances and annuities, as well as the annuities to spouses and children of deceased judges.

The Commissioner for Federal Judicial Affairs is assisted by a Deputy Commissioner who is responsible for financial, personnel and administrative matters and language training, and by an Executive Editor who is responsible for editing Federal Court Reports. Also under the direction of the Commissioner is the Administrator of the Federal Court of Canada and the Registrar of the Tax Court of Canada as well as the Executive Secretary of the Canadian Judicial Council which is an independent statutory body composed of Chief Justices and Chief Judges.

## **II. ADMINISTRATION**

Administration has the following objectives:

- to administer Part I of the Judges' Act, which provides for the payment of salaries, allowances and annuities to federally appointed judges, and, for the payment of annuities to spouses and children of deceased judges;
- to provide central administrative services to the Canadian Judicial Council;
- to develop and provide a language training program to federally appointed judges;
- to edit and publish the Federal Court Reports; and
- to keep under review the Judges' Act and to recommend appropriate amendments.

These objectives are accomplished through the work of four units.

### **Policy and Management Services Unit**

This Unit provides the Program with policy direction, as well as financial, personnel and administrative services.

### **Judges' Administration Unit**

Judges' Administration administers all salaries, allowances and annuities to judges of the Federal Court of Canada, the Tax Court of Canada and all other federally appointed judges of the superior, county and district courts of the provinces and territories as authorized by the Judges' Act. This area also administers gratuities to spouses of such judges who die while in office and it also pays annuities to spouses and children of deceased judges. Salaries and allowances are provided for over 800 judges and annuities are paid to over 400 recipients.

### **Judges' Language Training**

Language Training provides courses to judges to improve their capabilities in both official languages. Particular emphasis is placed upon the use of legal terminology in all courses.

Courses provided are of three types: week-long immersion sessions for anglophone and francophone judges, private tutoring for judges from three to five hours a week between immersion sessions, and month long immersion sessions for anglophone judges.

### **Editing Federal Court Reports**

This area is responsible for the publication of reasons for judgement rendered by the Federal Court. All reasons for judgement are reviewed to determine those which should be published as important precedents. Those chosen are then the subject of extensive editing and review to ensure that their contents and legal references are accurate. This area is composed of the Executive Editor, three editors and four editorial assistants.

## **CANADIAN JUDICIAL COUNCIL**

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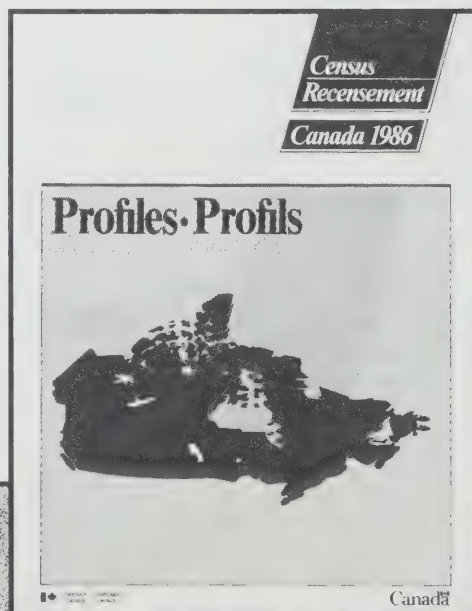
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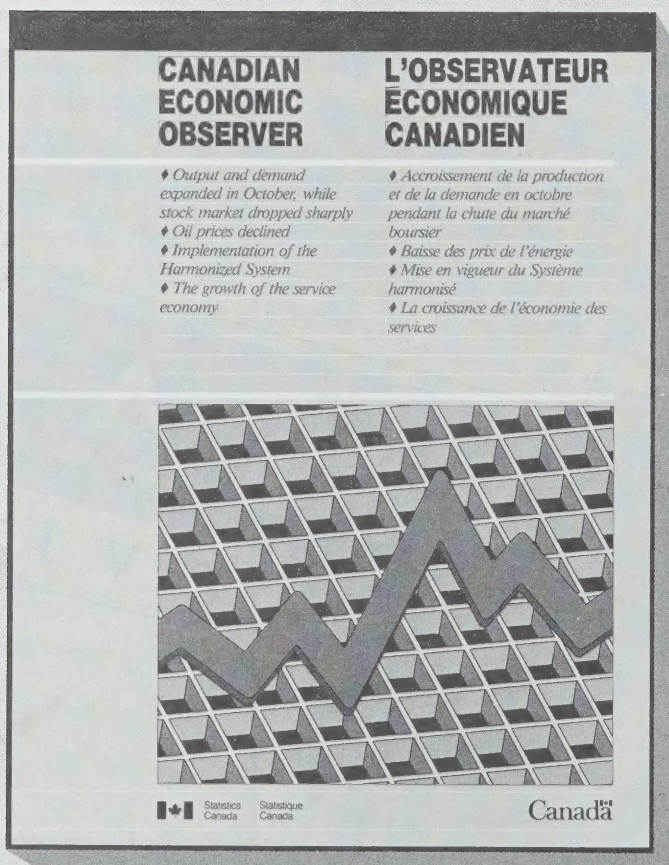


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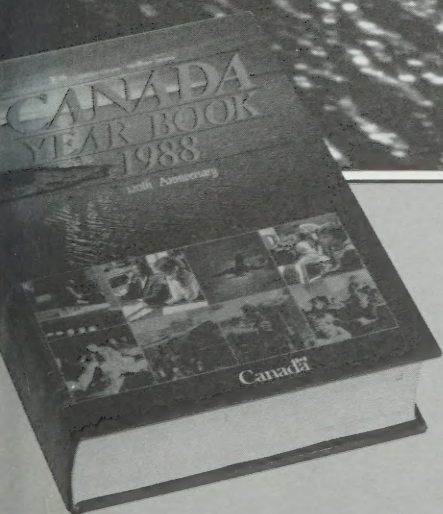
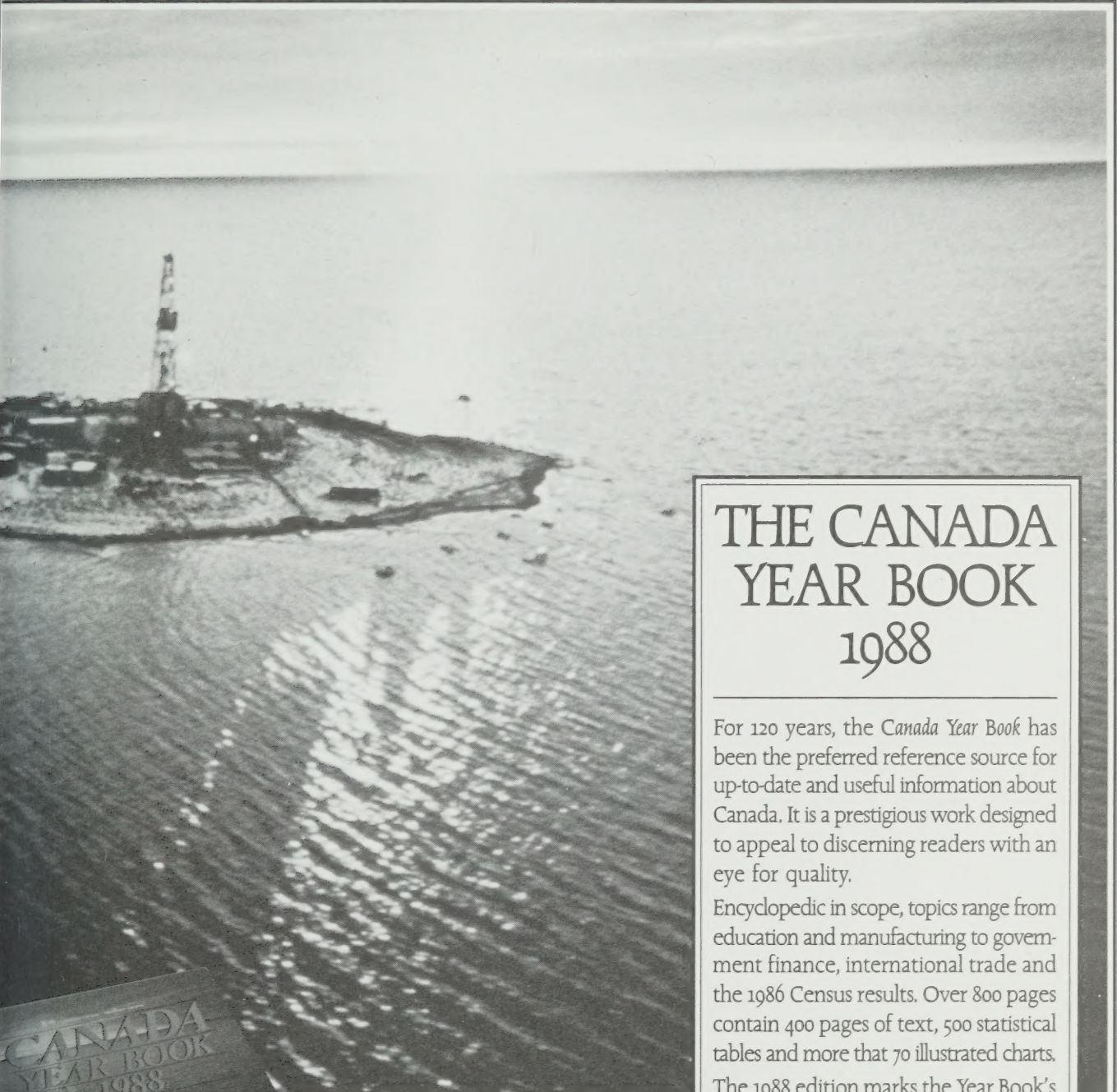
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